

Chapter 5104 | Child Day-care

Ohio Revised Code / Title 51 Public Welfare

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Section

Section 5104.01 | Child care definitions.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

As used in this chapter:

(A) "Administrator" means the person responsible for the daily operation of a center, type A home, or approved child day camp. The administrator and the owner may be the same person.

(B) "Approved child day camp" means a child day camp approved pursuant to section [5104.22](#) of the Revised Code.

(C) "Authorized representative" means an individual employed by a center, type A home, or approved child day camp that is owned by a person other than an individual and who is authorized by the owner to do all of the following:

- (1) Communicate on the owner's behalf;
- (2) Submit on the owner's behalf applications for licensure or approval;
- (3) Enter into on the owner's behalf provider agreements for publicly funded child care.

(D) "Border state child care provider" means a child care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child care funded by the child care block grant act.

(E) "Career pathways model" means an alternative pathway to meeting the requirements to be a child care staff member or administrator that does both of the following:

(1) Uses a framework approved by the director of job and family services to document formal education, training, experience, and specialized credentials and certifications;

(2) Allows the child care staff member or administrator to achieve a designation as an early childhood professional level one, two, three, four, five, or six.

(F) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

(G) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the director of education and workforce for nonpublic schools pursuant to section [3301.07](#) of the Revised Code.

(H) "Child" includes an infant, toddler, preschool-age child, or school-age child.

(I) "Child care block grant act" means the "Child Care and Development Block Grant Act of 2014," 128 Stat. 1971 (2014), 42 U.S.C. 9858, as amended.

(J) "Child day camp" means a program in which only school-age children attend or participate, that operates for no more than twelve hours per day and no more than fifteen weeks during the summer. For purposes of this division, the maximum twelve hours of operation time does not include transportation time from a child's home to a child day camp and from a child day camp to a child's home.

(K) "Child care" means all of the following:

- (1) Administering to the needs of infants, toddlers, preschool-age children, and school-age children outside of school hours;
 - (2) By persons other than their parents, guardians, or custodians;
 - (3) For part of the twenty-four-hour day;
 - (4) In a place other than a child's own home, except that an in-home aide provides child care in the child's own home;
 - (5) By a provider required by this chapter to be licensed or approved by the department of job and family services, certified by a county department of job and family services, or under contract with the department to provide publicly funded child care as described in section [5104.32](#) of the Revised Code.
- (L) "Child care center" and "center" mean any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for seven or more children at one time. "Child care center" and "center" do not include any of the following:
- (1) A place located in and operated by a hospital, as defined in section [3727.01](#) of the Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;
 - (2) A child day camp;
 - (3) A place that provides care, if all of the following apply:

- (a) An organized religious body provides the care;
 - (b) A parent, custodian, or guardian of at least one child receiving care is on the premises and readily accessible at all times;
 - (c) The care is not provided for more than thirty days a year;
 - (d) The care is provided only for preschool-age and school-age children.
- (M) "Child care resource and referral service organization" means a community-based nonprofit organization that provides child care resource and referral services but not child care.
- (N) "Child care resource and referral services" means all of the following services:
- (1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;
 - (2) Provision of individualized consumer education to families seeking child care;
 - (3) Provision of timely referrals of available child care providers to families seeking child care;
 - (4) Recruitment of child care providers;
 - (5) Assistance in developing, conducting, and disseminating training for child care professionals and provision of technical assistance to current and potential child care providers, employers, and the community;
 - (6) Collection and analysis of data on the supply of and demand for child care in the community;

- (7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs;
- (8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;
- (9) Provision of written educational materials to caretaker parents and informational resources to child care providers;
- (10) Coordination of services among child care resource and referral service organizations to assist in developing and maintaining a statewide system of child care resource and referral services if required by the department of job and family services;
- (11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child care centers and parent cooperative type A family child care homes.
- (O) "Child care staff member" means an employee of a child care center, type A family child care home, licensed type B family child care home, or approved child day camp who is primarily responsible for the care and supervision of children. The administrator, authorized representative, or owner may be a child care staff member when not involved in other duties.
- (P) "Drop-in child care center," "drop-in center," "drop-in type A family child care home," and "drop-in type A home" mean a center or type A home that provides child care or publicly funded child care for children on a temporary, irregular basis.
- (Q) "Employee" means a person who either:
- (1) Receives compensation for duties performed in a child care center, type A family child care home, licensed type B family child care home, or approved child day camp;

(2) Is assigned specific working hours or duties in a child care center, type A family child care home, licensed type B family child care home, or approved child day camp.

(R) "Employer" means a person, firm, institution, organization, or agency that operates a child care center, type A family child care home, licensed type B family child care home, or approved child day camp subject to licensure or approval under this chapter.

(S) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(T) "Head start program" means a school-readiness program that satisfies all of the following:

(1) Is for children from birth to age five who are from low-income families;

(2) Receives funds distributed under the "Improving Head Start for School-Readiness Act of 2007," 42 U.S.C. 9831, as amended;

(3) Is licensed as a child care program.

(U) "Homeless child care" means child care provided to a child who satisfies any of the following:

(1) Is homeless as defined in 42 U.S.C. 11302;

(2) Is a homeless child or youth as defined in 42 U.S.C. 11434a;

(3) Resides temporarily with a caretaker in a facility providing emergency shelter for homeless families or is determined by a county department of job and family services to be homeless.

(V) "Income" means gross income, as defined in section [5107.10](#) of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.

(W) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child care center's, type A family child care home's, or licensed type B family child care home's compliance with licensing requirements.

(X) "Infant" means a child who is less than eighteen months of age.

(Y) "In-home aide" means a person who does not reside with the child but provides care in the child's home and is certified by a county director of job and family services pursuant to section [5104.12](#) of the Revised Code to provide publicly funded child care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

(Z) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child care centers, type A family child care homes, and licensed type B family child care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to develop an indicator checklist.

(AA) "License capacity" means the maximum number in each age category of children who may be cared for in a child care center, type A family child care home, or licensed type B family child care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies.

(BB) "Licensed child care program" means any of the following:

(1) A child care center licensed by the department of job and family services pursuant to this chapter;

(2) A type A family child care home or type B family child care home licensed by the department of job and family services pursuant to this chapter;

(3) A licensed preschool program or licensed school child program.

(CC) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as defined in section [3301.52](#) of the Revised Code, that is licensed by the department of education and workforce pursuant to sections [3301.52](#) to [3301.59](#) of the Revised Code.

(DD) "Licensed type B family child care home" and "licensed type B home" mean a type B family child care home for which there is a valid license issued by the director of job and family services pursuant to section [5104.03](#) of the Revised Code.

(EE) "Licensee" means the owner of a child care center, type A family child care home, or type B family child care home that is licensed pursuant to this chapter and who is responsible for ensuring compliance with this chapter and rules adopted pursuant to this chapter.

(FF) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

(GG) "Owner" includes a person, as defined in section [1.59](#) of the Revised Code, or government entity.

(HH) "Parent cooperative child care center," "parent cooperative center," "parent cooperative type A family child care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association

as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation or association is on the premises of the center or type A home during its hours of operation.

(II) "Part-time child care center," "part-time center," "part-time type A family child care home," and "part-time type A home" mean a center or type A home that provides child care or publicly funded child care for not more than four hours a day for any child or not more than fifteen consecutive weeks per year, regardless of the number of hours per day.

(JJ) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any other buildings on the grounds used for such activities.

(KK) "Preschool-age child" means a child who is three years old or older but is not a school-age child.

(LL) "Protective child care" means publicly funded child care for the direct care and protection of a child to whom all of the following apply:

(1) A case plan has been prepared and maintained for the child pursuant to section [2151.412](#) of the Revised Code.

(2) The case plan indicates a need for protective care.

(3) The child resides with a parent, stepparent, guardian, or another person who stands in loco parentis as defined in rules adopted under section [5104.38](#) of the Revised Code.

(MM) "Publicly funded child care" means administering to the needs of infants, toddlers, preschool-age children, and school-age children under age thirteen during any part of the twenty-four-hour day by persons other than their caretaker parents for remuneration

wholly or in part with federal or state funds, including funds available under the child care block grant act, Title IV-A, and Title XX, distributed by the department of job and family services.

(NN) "Religious activities" means any of the following: worship or other religious services; religious instruction; Sunday school classes or other religious classes conducted during or prior to worship or other religious services; youth or adult fellowship activities; choir or other musical group practices or programs; meals; festivals; or meetings conducted by an organized religious group.

(OO) "School-age child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old or, in the case of a child who is receiving special needs child care, is less than eighteen years old.

(PP) "Serious risk noncompliance" means a licensure or certification rule violation that leads to a great risk of harm to, or death of, a child, and is observable, not inferable.

(QQ) "Special needs child care" means child care provided to a child who is less than eighteen years of age and either has one or more chronic health conditions or does not meet age appropriate expectations in one or more areas of development, including social, emotional, cognitive, communicative, perceptual, motor, physical, and behavioral development and that may include on a regular basis such services, adaptations, modifications, or adjustments needed to assist in the child's function or development.

(RR) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

(SS) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended.

(TT) "Toddler" means a child who is at least eighteen months of age but less than three years of age.

(UU) "Type A family child care home" and "type A home" mean the permanent residence of the administrator in which child care or publicly funded child care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child care is provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A family child care home" and "type A home" do not include any child day camp.

(VV) "Type B family child care home" and "type B home" mean a permanent residence of the provider in which care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family child care home" and "type B home" do not include any child day camp.

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Section 5104.013 | Criminal records checks.

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(A) As used in this section:

(1) "Applicant" means either of the following:

(a) A person who is under final consideration for appointment to or employment in a position with a licensed preschool program or licensed school child program that provides

publicly funded child care, child care center, type A family child care home, licensed type B family child care home, or child day camp;

(b) A person who would serve in any position with a licensed preschool program or licensed school child program that provides publicly funded child care, child care center, type A family child care home, licensed type B family child care home, or child day camp pursuant to a contract with another entity.

(2) "Criminal records check" has the same meaning as in section [109.572](#) of the Revised Code.

(B)(1) At the times specified in division (B)(2)(a) of this section, the director of job and family services shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check for each of the following persons:

(a) Any owner or licensee of a child care center;

(b) Any owner or licensee of a type A family child care home or licensed type B family child care home and any person eighteen years of age or older who resides in the home;

(c) Any owner of an approved child day camp;

(d) Any director of a licensed preschool program or licensed school child program that provides publicly funded child care;

(e) Any in-home aide;

(f) Any applicant or employee, including an administrator, of a child care center, type A family child care home, licensed type B family child care home, approved child day camp, or licensed preschool program or licensed school child program that provides publicly funded child care.

(2)(a) The director shall request a criminal records check at the following times:

- (i) In the case of an owner or licensee of child care center or an owner or licensee of a type A family child care home or licensed type B family child care home or a resident of such a home, at the time of initial application for licensure and every five years thereafter;
 - (ii) In the case of an owner of an approved child day camp, at the time of initial application for approval and every five years thereafter;
 - (iii) In the case of a director of a licensed child care program or licensed school child program, at the time of initial application to provide publicly funded child care and every five years thereafter;
 - (iv) In the case of an in-home aide, at the time of initial application for certification and every five years thereafter;
 - (v) Except as provided in division (B)(2)(a)(vi) of this section, in the case of an applicant or employee, at the time of initial application for employment and every five years thereafter;
 - (vi) In the case of an applicant who has been determined eligible for employment after a review of a criminal records check within the past five years and who has been employed by a licensed preschool program or licensed school child program that provides publicly funded child care, child care center, type A family child care home, licensed type B family child care home, or approved child day camp within the past one hundred eighty consecutive days, every five years after the date of the initial determination.
- (b) A criminal records check requested at the time of initial application shall include a request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check for the person, including fingerprint-based checks of national crime information

databases as described in 42 U.S.C. 671 for the person subject to the criminal records check.

(c) A criminal records check requested at any time other than the time of initial application may include a request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check.

(3) With respect to a criminal records check requested for a person described in division (B)(1) of this section, the director of job and family services shall do all of the following:

(a) Provide to the person a copy of the form prescribed pursuant to division (C)(1) of section [109.572](#) of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and impression sheet from the person;

(c) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation;

(d) Review the results of the criminal records check.

(4) A person who receives from the director a copy of the form and standard impression sheet and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all of the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the person, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the director or a county director of job and family services may consider the failure a

reason to deny licensure, approval, or certification or to determine an employee ineligible for employment.

(5) Except as provided in rules adopted under division (F) of this section:

(a) The director of job and family services shall refuse to issue a license to or approve a center, type A home, type B home, child day camp, preschool program, or school child program, and shall revoke a license or approval, and a county director of job and family services shall not certify an in-home aide and shall revoke a certification, if a person for whom a criminal records check was required under division (B)(1)(a) to (B)(1)(e) of this section has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section [109.572](#) of the Revised Code.

(b) The director of job and family services shall not issue a license to a type A home or type B home if a resident of the type A home or type B home is under eighteen years of age and has been adjudicated a delinquent child for committing either a violation of any section listed in division (A)(5) of section [109.572](#) of the Revised Code or an offense of another state or the United States that is substantially equivalent to an offense listed in division (A)(5) of section [109.572](#) of the Revised Code.

(c) The director shall determine an applicant or employee ineligible for employment if the person has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section [109.572](#) of the Revised Code.

(6) Each child care center, type A home, type B home, approved child day camp, licensed child care program, licensed school child program, and in-home aide shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section [109.572](#) of the Revised Code for each criminal records check conducted in accordance with that section upon a request made pursuant to division (B) of this section.

A center, home, camp, preschool program, or school child program may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount the center, home, camp, or program pays under this section. If a fee is charged, the center, home, camp, or program shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the center, home, camp, or program will not consider the applicant for employment.

(7) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section [109.572](#) of the Revised Code and pursuant to a request made under division (B) of this section is confidential and not a public record for the purposes of section [149.43](#) of the Revised Code. The report shall not be made available to any person other than the person who is the subject of the criminal records check or the person's representative, the director of job and family services, the director of a county department of job and family services, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial or revocation of licensure, approval, or certification related to the criminal records check.

(C)(1) At the times specified in division (C)(2) of this section, the director of job and family services shall search the uniform statewide automated child welfare information system for information concerning any abuse or neglect report made pursuant to section [2151.421](#) of the Revised Code of which any of the following persons is a subject:

- (a) Any owner or licensee of a child care center;
- (b) Any owner or licensee of a type A family child care home or licensed type B family child care home and any person eighteen years of age or older who resides in the home;
- (c) Any owner of an approved child day camp;

(d) Any director of a licensed preschool program or licensed school child program that provides publicly funded child care;

(e) Any in-home aide;

(f) Any applicant or employee, including an administrator, of a child care center, type A family child care home, licensed type B family child care home, approved child day camp, or licensed preschool program or licensed school child program that provides publicly funded child care.

(2) The director shall search the information system at the following times:

(a) In the case of an owner or licensee of child care center or an owner or licensee of a type A family child care home or licensed type B family child care home or a resident of such a home, at the time of initial application for licensure and every five years thereafter;

(b) In the case of an owner of an approved child day camp, at the time of initial application for approval and every five years thereafter;

(c) In the case of a director of a licensed child care program or licensed school child program, at the time of initial application to provide publicly funded child care and every five years thereafter;

(d) In the case of an in-home aide, at the time of initial application for certification and every five years thereafter;

(e) Except as provided in division (C)(2)(f) of this section, in the case of an applicant or employee, at the time of initial application for employment and every five years thereafter;

(f) In the case of an applicant who has been determined eligible for employment after a search of the uniform statewide automated child welfare information system within the past five years and who has been employed by a licensed preschool program or licensed

school child program that provides publicly funded child care, child care center, type A family child care home, licensed type B family child care home, or approved child day camp within the past one hundred eighty consecutive days, every five years after the date of the initial determination.

(3) The director shall consider any information discovered pursuant to division (C)(1) of this section or that is provided by a public children services agency pursuant to section [5153.175](#) of the Revised Code. If the director determines that the information, when viewed within the totality of the circumstances, reasonably leads to the conclusion that the person may directly or indirectly endanger the health, safety, or welfare of children, the director or county director of job and family services shall do any of the following:

(a) Refuse to issue a license to or approve a center, type A home, type B home, child day camp, preschool program, or school child program;

(b) Revoke a license or approval;

(c) Refuse to certify an in-home aide or revoke a certification;

(d) Determine an applicant or employee ineligible for employment with the center, type A home, licensed type B home, child day camp, preschool program, or school child program.

(4) Any information obtained under division (C) of this section is confidential and not a public record for the purposes of section [149.43](#) of the Revised Code. The information shall not be made available to any person other than the person who is the subject of the search or the person's representative, the director of job and family services, the director of a county department of job and family services, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial or revocation of licensure, approval, or certification related to the search.

(D)(1) At the times specified in division (D)(2) of this section, the director of job and family services shall inspect the state registry of sex offenders and child-victim offenders established under section [2950.13](#) of the Revised Code and the national sex offender registry as described in 42 U.S.C. 16901 to determine if any of the following persons is registered or required to be registered as an offender:

- (a) Any owner or licensee of a child care center;
- (b) Any owner or licensee of a type A family child care home or licensed type B family child care home and any person eighteen years of age or older who resides in the home;
- (c) Any owner of an approved child day camp;
- (d) Any director of a licensed preschool program or licensed school child program that provides publicly funded child care;
- (e) Any in-home aide;
- (f) Any applicant or employee, including an administrator, of a child care center, type A family child care home, licensed type B family child care home, approved child day camp, or licensed preschool program or licensed school child program that provides publicly funded child care.

(2) The director shall inspect each registry at the following times:

- (a) In the case of an owner or licensee of child care center or an owner or licensee of a type A family child care home or type B family child care home or a resident of such a home, at the time of initial application for licensure and every five years thereafter;
- (b) In the case of an owner of an approved child day camp, at the time of initial application for approval and every five years thereafter;

- (c) In the case of a director of a licensed child care program or licensed school child program, at the time of initial application to provide publicly funded child care;
 - (d) In the case of an in-home aide, at the time of initial application for certification and every five years thereafter;
 - (e) Except as provided in division (D)(2)(f) of this section, in the case of an applicant or employee, at the time of initial application for employment and every five years thereafter;
 - (f) In the case of an applicant who has been determined eligible for employment after an inspection of the state registry of sex offenders and child-victim offenders established under section [2950.13](#) of the Revised Code and the national sex offender registry as described in 42 U.S.C. 16901 within the past five years and who has been employed by a licensed preschool program or licensed school child program that provides publicly funded child care, child care center, type A family child care home, licensed type B family child care home, or approved child day camp within the past one hundred eighty consecutive days, every five years after the date of the initial determination.
- (3) If the director determines that the person is registered or required to be registered on either registry, the director or county director of job and family services shall do any of the following:
- (a) Refuse to issue a license to or approve a center, type A home, type B home, child day camp, preschool program, or school child program;
 - (b) Revoke a license or approval;
 - (c) Refuse to certify an in-home aide or revoke a certification;
 - (d) Determine an applicant or employee ineligible for employment with the center, type A home, licensed type B home, child day camp, preschool program, or school child program.

(4) Any information obtained under division (D) of this section is confidential and not a public record for the purposes of section [149.43](#) of the Revised Code. The information shall not be made available to any person other than the person who is the subject of the inspection or the person's representative, the director of job and family services, the director of a county department of job and family services, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial or revocation of licensure, approval, or certification related to the search.

(E) Whenever the director of job and family services determines a person ineligible for employment under division (B), (C), or (D) of this section, the director shall as soon as practicable notify the following of that determination: the licensed preschool program or licensed school child program that provides publicly funded child care, child care center, type A family child care home, licensed type B family child care home, or approved child day camp that is considering the person for appointment or employment. A licensed preschool program or licensed school child program that provides publicly funded child care, child care center, type A family child care home, licensed type B family child care home, or approved child day camp shall not employ a person who is determined under this section to be ineligible for employment.

(F)(1) An administrator of a child day camp, other than an approved child day camp shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check for any applicant or employee, including an administrator, of the child day camp. The request shall be made at the time of initial application for employment and every five years thereafter.

(2) A criminal records check requested at the time of initial application shall include a request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check for the person, including fingerprint-based checks of national crime information

databases as described in 42 U.S.C. 671 for the person subject to the criminal records check.

(3) A criminal records check requested at any time other than the time of initial application may include a request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check.

(4) With respect to a criminal records check requested under division (F) of this section, the administrator shall do all of the following:

(a) Provide to the applicant or employee a copy of the form prescribed pursuant to division (C)(1) of section [109.572](#) of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and impression sheet from the applicant or employee;

(c) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation;

(d) Review the results of the criminal records check.

(5) An applicant or employee who receives from the administrator a copy of the form and standard impression sheet and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all of the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the applicant or employee, upon request, fails to provide the information necessary to complete the form or fails to provide impressions

of the person's fingerprints, the administrator may consider the failure a reason to determine an applicant or employee ineligible for employment.

(6) A child day camp, other than an approved child day camp, may employ an applicant or continue to employ an employee until the criminal records check required by this section is completed and the camp receives the results of the check. Until the administrator has reviewed the results of the criminal records check and determines that the applicant or employee is eligible for employment, the camp shall not grant the applicant or employee sole responsibility for the care, custody, or control of a child. If the results indicate that the applicant or employee is ineligible for employment, the camp shall immediately release the applicant or employee from employment.

(7) Except as provided in rules adopted under this section, the administrator shall determine an applicant or employee ineligible for employment if the person has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section [109.572](#) of the Revised Code. If the applicant or employee is determined ineligible, the child day camp shall not employ the applicant or employee or contract with another entity for the services of the applicant or employee.

(8) Each child day camp shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section [109.572](#) of the Revised Code for each criminal records check conducted in accordance with that section upon a request made pursuant to division (F) of this section. A camp may charge an applicant or employee a fee for the costs it incurs in obtaining a criminal records check under division (F) of this section. A fee charged under this division shall not exceed the fees the camp pays under this section. If a fee is charged, the camp shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the camp will not consider the applicant for employment.

(9) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section [109.572](#) of the Revised Code and pursuant to a request made under division (F) of this section is confidential and not a public record for the purposes of section [149.43](#) of the Revised Code. The report shall not be made available to any person other than the person who is the subject of the criminal records check or the person's representative, the director of job and family services, the administrator, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial or revocation of registration related to the criminal records check.

(G) The director of job and family services shall adopt rules as necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The rules shall specify exceptions to the prohibitions in divisions (B), (E), and (F) of this section for a person who has been convicted of or pleaded guilty to a criminal offense listed in division (A)(5) of section [109.572](#) of the Revised Code but who meets standards in regard to rehabilitation set by the director.

(H)(1) Whenever the director of job and family services requests a criminal records check, searches the uniform statewide automated child welfare information system, or inspects the state registry of sex offenders and child-victim offenders and national sex offender registry as required by this section and finds that a person who is subject to the requirements of division (B), (C), or (D) of this section resided in another state during the previous five years, the director shall request the following from the other state: a criminal records check and information from the uniform statewide automated child welfare information system or state registry of sex offenders.

(2) Whenever the director receives from an agency of another state a request for a criminal records check or for information from the uniform statewide automated child welfare information system or state registry of sex offenders that is related to a child care license or the provision of publicly funded child care, the director shall provide to that other

state's agency the results of the records check and information from the system and registry.

Last updated August 23, 2023 at 11:34 AM

Section 5104.014 | Medical statement of immunization.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) As used in this section:

(1) "Child" includes both of the following:

(a) An infant, toddler, or preschool age child;

(b) A school-age child who is not enrolled in a public or nonpublic school but is enrolled in a child care center, type A family child care home, or licensed type B family child care home or receives child care from a certified in-home aide.

(2) "In the process of being immunized" means having received at least the first dose of an immunization sequence and complying with the immunization intervals or catch-up schedule prescribed by the director of health.

(B) Except as provided in division (C) of this section, not later than thirty days after enrollment in a child care center, type A family child care home, or licensed type B family child care home and every thirteen months thereafter while enrolled in the center or home and not later than thirty days after beginning to receive child care from a certified in-home aide and every thirteen months thereafter while continuing to receive child care from the aide, each child's caretaker parent shall provide to the center, home, or in-home aide a medical statement, as described in division (D) of this section, indicating that the child has been immunized against or is in the process of being immunized against all of the following diseases:

- (1) Chicken pox;
- (2) Diphtheria;
- (3) Haemophilus influenzae type b;
- (4) Hepatitis A;
- (5) Hepatitis B;
- (6) Influenza;
- (7) Measles;
- (8) Mumps;
- (9) Pertussis;
- (10) Pneumococcal disease;
- (11) Poliomyelitis;
- (12) Rotavirus;
- (13) Rubella;
- (14) Tetanus.

(C)(1) A child is not required to be immunized against a disease specified in division (B) of this section if any of the following is the case:

- (a) Immunization against the disease is medically contraindicated for the child;
- (b) The child's parent or guardian has declined to have the child immunized against the disease for reasons of conscience, including religious convictions;

(c) Immunization against the disease is not medically appropriate for the child's age.

(2) In the case of influenza, a child is not required to be immunized against the disease if the seasonal vaccine is not available.

(D)(1) The medical statement shall include all of the following information:

(a) The dates that a child received immunizations against each of the diseases specified in division (B) of this section;

(b) Whether a child is subject to any of the exceptions specified in division (C) of this section.

(2) The medical statement shall include a component where a parent or guardian may indicate that the parent or guardian has declined to have the child immunized.

Last updated August 23, 2023 at 9:15 AM

Section 5104.015 | Adoption of rules.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing the operation of child care centers, including parent cooperative centers, part-time centers, and drop-in centers. The rules shall reflect the various forms of child care and the needs of children receiving child care or publicly funded child care and shall include specific rules for school-age child care centers that are developed in consultation with the department of education and workforce. The rules shall include the following:

(A) Submission of a site plan and descriptive plan of operation to demonstrate how the center proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(B) Standards for ensuring that the physical surroundings of the center are safe and sanitary including the physical environment, the physical plant, and the equipment of the center;

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the center;

(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child care centers owned and operated by churches and does include methods of disciplining children at child care centers.

(E) Admissions policies and procedures;

(F) Health care policies and procedures, including procedures for the isolation of children with communicable diseases;

(G) First aid and emergency procedures;

(H) Procedures for discipline and supervision of children;

(I) Standards for the provision of nutritious meals and snacks;

(J) Procedures for screening children that may include any necessary physical examinations and shall include immunizations in accordance with section [5104.014](#) of the Revised Code;

(K) Procedures for screening employees that may include any necessary physical examinations and immunizations;

(L) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;

(M) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;

(N) Procedures for record keeping, organization, and administration;

(O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(P) Inspection procedures;

(Q) Procedures and standards for setting initial license application fees;

(R) Procedures for receiving, recording, and responding to complaints about centers;

(S) Procedures for enforcing section [5104.04](#) of the Revised Code;

(T) Minimum qualifications for employment as an administrator or child care staff member, which shall not include requiring an administrator or child care staff member to hold or obtain a bachelor's, master's, or doctoral degree;

(U) Requirements for the training of administrators and child care staff members, including training in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

(V) Standards providing for the needs of children who have disabilities or who require treatment for health conditions while the child is receiving child care or publicly funded

child care in the center;

(W) A procedure for reporting of injuries of children that occur at the center;

(X) Standards for licensing child care centers for children with short-term illnesses and other temporary medical conditions;

(Y) Minimum requirements for instructional time for child care centers rated through the step up to quality program established pursuant to section [5104.29](#) of the Revised Code;

(Z) Any other procedures and standards necessary to carry out the provisions of this chapter regarding child care centers.

Last updated August 23, 2023 at 11:46 AM

Section 5104.016 | Rules establishing minimum requirements for child day-care centers.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

The director of job and family services, in addition to the rules adopted under section [5104.015](#) of the Revised Code, shall adopt rules establishing minimum requirements for child care centers. The rules shall include the requirements set forth in sections [5104.032](#) to [5104.034](#) of the Revised Code. Except as provided in section [5104.07](#) of the Revised Code, the rules shall not change the square footage requirements of section [5104.032](#) of the Revised Code or the maximum number of children per care staff member and maximum group size requirements of section [5104.033](#) of the Revised Code. However, the rules shall provide procedures for determining compliance with those requirements.

Last updated August 23, 2023 at 12:20 PM

Section 5104.017 | Adoption of rules governing the operation of type A family day-care homes.

The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family child care homes, including parent cooperative type A homes, part-time type A homes, and drop-in type A homes. The rules shall reflect the various forms of child care and the needs of children receiving child care. The rules shall include the following:

- (A) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;
- (B) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including the physical environment, the physical plant, and the equipment of the type A home;
- (C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the type A home;
- (D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;
- (E) Admissions policies and procedures;
- (F) Health care policies and procedures, including procedures for the isolation of children with communicable diseases;
- (G) First aid and emergency procedures;

- (H) Procedures for discipline and supervision of children;
- (I) Standards for the provision of nutritious meals and snacks;
- (J) Procedures for screening children, including any necessary physical examinations and the immunizations required pursuant to section [5104.014](#) of the Revised Code;
- (K) Procedures for screening employees, including any necessary physical examinations and immunizations;
- (L) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;
- (M) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;
- (N) Procedures for record keeping, organization, and administration;
- (O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;
- (P) Inspection procedures;
- (Q) Procedures and standards for setting initial license application fees;
- (R) Procedures for receiving, recording, and responding to complaints about type A homes;
- (S) Procedures for enforcing section [5104.04](#) of the Revised Code;
- (T) A standard requiring the inclusion of a current department of job and family services toll-free telephone number on each type A home license that any person may use to report

a suspected violation by the type A home of this chapter or rules adopted pursuant to this chapter;

(U) Requirements for the training of administrators and child care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

(V) Standards providing for the needs of children who have disabilities or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the type A home;

(W) Standards for the maximum number of children per child care staff member;

(X) Requirements for the amount of usable indoor floor space for each child;

(Y) Requirements for safe outdoor play space;

(Z) Qualifications and training requirements for administrators and for child care staff members, which shall not include requiring an administrator or child care staff member to hold or obtain a bachelor's, master's, or doctoral degree;

(AA) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;

(BB) Minimum requirements for instructional time for type A homes rated through the step up to quality program established pursuant to section [5104.29](#) of the Revised Code;

(CC) Any other procedures and standards necessary to carry out the provisions of this chapter regarding type A homes.

Last updated August 23, 2023 at 12:27 PM

The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing the licensure of type B family child care homes. The rules shall provide for safeguarding the health, safety, and welfare of children receiving child care or publicly funded child care in a licensed type B family child care home and shall include all of the following:

- (A) Requirements for the type B home to notify parents with children in the type B home that the type B home is certified as a foster home under section [5103.03](#) of the Revised Code;
- (B) Standards for ensuring that the type B home and the physical surroundings of the type B home are safe and sanitary, including physical environment, physical plant, and equipment;
- (C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the home;
- (D) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;
- (E) Admission policies and procedures;
- (F) Health care, first aid and emergency procedures;
- (G) Procedures for the care of sick children;
- (H) Procedures for discipline and supervision of children;

(I) Nutritional standards;

(J) Procedures for screening children, including any necessary physical examinations and the immunizations required pursuant to section [5104.014](#) of the Revised Code;

(K) Procedures for screening administrators and employees, including any necessary physical examinations and immunizations;

(L) Methods of encouraging parental participation and ensuring that the rights of children, parents, and administrators are protected and the responsibilities of parents and administrators are met;

(M) Standards for the safe transport of children when under the care of administrators;

(N) Procedures for issuing, denying, or revoking licenses;

(O) Procedures for the inspection of type B homes that require, at a minimum, that each type B home be inspected prior to licensure to ensure that the home is safe and sanitary;

(P) Procedures for record keeping and evaluation;

(Q) Procedures for receiving, recording, and responding to complaints;

(R) Standards providing for the needs of children who have disabilities or who receive treatment for health conditions while the child is receiving child care or publicly funded child care in the type B home;

(S) Requirements for the amount of usable indoor floor space for each child;

(T) Requirements for safe outdoor play space;

(U) Qualification and training requirements for administrators and employees, which shall not include requiring an administrator or employee to hold or obtain a bachelor's,

master's, or doctoral degree;

(V) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;

(W) Requirements for the type B home to notify parents with children in the type B home that the type B home is certified as a foster home under section [5103.03](#) of the Revised Code;

(X) Minimum requirements for instructional time for type B homes rated through the step up to quality program established pursuant to section [5104.29](#) of the Revised Code;

(Y) Any other procedures and standards necessary to carry out the provisions of this chapter regarding licensure of type B homes.

Last updated August 28, 2023 at 12:57 PM

Section 5104.019 | Adoption of rules governing the certification of in-home aides.

Effective: April 6, 2023 **Latest Legislation:** House Bill 281 - 134th General Assembly

The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child care in their own home and shall include the following:

(A) Standards for ensuring that the child's home and the physical surroundings of the child's home are safe and sanitary, including physical environment, physical plant, and equipment;

(B) Standards for the supervision, care, and discipline of children receiving publicly funded child care in their own home;

(C) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(D) Health care, first aid, and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and in-home aides, including any necessary physical examinations and immunizations;

(E) Methods of encouraging parental participation and ensuring that the rights of children, parents, and in-home aides are protected and the responsibilities of parents and in-home aides are met;

(F) Standards for the safe transport of children when under the care of in-home aides;

(G) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

(H) Procedures for inspection of homes of children receiving publicly funded child care in their own homes;

(I) Procedures for record keeping and evaluation;

(J) Procedures for receiving, recording, and responding to complaints;

(K) Qualifications and training requirements for in-home aides;

(L) Standards providing for the needs of children who have disabilities or who receive treatment for health conditions while the child is receiving publicly funded child care in the child's own home;

(M) Any other procedures and standards necessary to carry out the provisions of this chapter regarding certification of in-home aides.

Last updated September 29, 2023 at 12:05 PM

Section 5104.0110 | Rules requiring a physical examination.

Effective: January 1, 2014 **Latest Legislation:** Senate Bill 316 - 129th General Assembly

To the extent that any rules adopted for the purposes of this chapter require a health care professional to perform a physical examination, the rules shall include as a health care professional a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife.

Section 5104.0111 | Director of job and family services; duties.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) The director of job and family services shall do all of the following:

(1) Provide or make available in either paper or electronic form to each licensee notice of proposed rules governing the licensure of child care centers, type A homes, and type B homes;

(2) Give public notice of hearings regarding the proposed rules at least thirty days prior to the date of the public hearing, in accordance with section [119.03](#) of the Revised Code;

(3) At least thirty days before the effective date of a rule, provide, in either paper or electronic form, a copy of the adopted rule to each licensee;

(4) Send to each county director of job and family services a notice of proposed rules governing the certification of in-home aides that includes an internet web site address where the proposed rules can be viewed;

(5) Provide to each county director of job and family services an electronic copy of each adopted rule at least forty-five days prior to the rule's effective date;

(6) Review all rules adopted pursuant to this chapter at least once every seven years.

(B) The county director of job and family services shall provide or make available in either paper or electronic form to each in-home aide copies of proposed rules and shall give public notice of hearings regarding the rules to each in-home aide at least thirty days prior to the date of the public hearing, in accordance with section [119.03](#) of the Revised Code. At least thirty days before the effective date of a rule, the county director of job and family services shall provide, in either paper or electronic form, copies of the adopted rule to each in-home aide.

(C) Additional copies of proposed and adopted rules shall be made available by the director of job and family services to the public on request at no charge.

(D) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code for imposing sanctions on persons and entities that are licensed or certified under this chapter. Sanctions may be imposed only for an action or omission that constitutes a serious risk noncompliance. The sanctions imposed shall be based on the scope and severity of the violations.

The director shall make a dispute resolution process available for the implementation of sanctions. The process may include an opportunity for appeal pursuant to Chapter 119. of the Revised Code.

(E) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards for the training of individuals who inspect or investigate type B family child care homes pursuant to section [5104.03](#) of the Revised Code. The department shall provide training in accordance with those standards for individuals in the categories described in this division.

Section 5104.0112 | Regulation of instruction in religious or moral doctrines, beliefs, or values prohibited.

Effective: January 1, 2014 **Latest Legislation:** Senate Bill 316 - 129th General Assembly

Notwithstanding any provision of the Revised Code, the director of job and family services shall not regulate in any way under this chapter or rules adopted pursuant to this chapter, instruction in religious or moral doctrines, beliefs, or values.

Last updated August 16, 2023 at 1:43 PM

Section 5104.02 | License required.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) The director of job and family services is responsible for licensing child care centers, type A family child care homes, and type B family child care homes. Each entity operating a head start program shall meet the criteria for, and be licensed as, a child care center. The director is responsible for the enforcement of this chapter and of rules promulgated pursuant to this chapter.

No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a child care center or type A family child care home without a license issued under section [5104.03](#) of the Revised Code. The current license shall be posted in the center or home in a conspicuous place that is accessible to parents, custodians, or guardians and employees of the center or home at all times when the center or home is in operation.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the requirements of this chapter:

- (1) A program caring for children that operates for two consecutive weeks or less and not more than six weeks total in each calendar year;
- (2) Caring for children in places of worship during religious activities while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;
- (3) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; athletic skills or sports; computers; or an educational subject conducted on an organized or periodic basis that a child does not attend for more than eight total hours per week;
- (4) Programs in which the director determines that at least one parent, custodian, or guardian of each child is on the premises of the facility that offers care and is readily accessible at all times and care is not provided for more than two and one-half hours a day per child;
- (5) Programs that provide care and are regulated by state departments other than the department of job and family services or the department of education and workforce.
- (6) Any preschool program or school child program, except a head start program, that is subject to licensure by the department of education and workforce under sections [3301.52](#) to [3301.59](#) of the Revised Code.
- (7) Any program providing care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued under section [3301.16](#) of the Revised Code for kindergarten only:
 - (a) The nonpublic school has given the notice to the state board of education and the director of job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;

(b) The nonpublic school continues to be chartered by the department of education and workforce for kindergarten, or receives and continues to hold a charter from the department for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the department of education and workforce under section [3301.53](#) of the Revised Code.

(8) A youth development program operated outside of school hours to which all of the following apply:

(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.

(b) The program provides informal care, which is care that does not require parental signature, permission, or notice for the child receiving the care to enter or leave the program.

(c) The program provides any of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.

(d) The entity operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).

(9) A program caring for children that is operated by a nonchartered, nontax-supported school if the program meets all of the following conditions:

(a) The program complies with state and local health, fire, and safety laws.

(b) The program annually certifies in a report to the children's parents that the program is in compliance with division (B)(9)(a) of this section and files a copy of the report with the

department of job and family services on or before the thirtieth day of September of each year.

(c) The program complies with all applicable reporting requirements in the same manner as required by the department of education and workforce for nonchartered, nonpublic primary and secondary schools.

(d) The program is associated with a nonchartered, nontax-supported primary or secondary school.

(10) A program that provides activities for children who are five years of age or older and is operated by a county, township, municipal corporation, township park district created under section [511.18](#) of the Revised Code, park district created under section [1545.04](#) of the Revised Code, or joint recreation district established under section [755.14](#) of the Revised Code.

Last updated August 28, 2023 at 1:52 PM

Section 5104.021 | Exemption of youth development programs.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

The director of job and family services may issue a child care center or type A family child care home license to a youth development program that is exempted by division (B)(8) of section [5104.02](#) of the Revised Code from the requirements of this chapter if the youth development program applies for and meets all of the requirements for the license.

Last updated August 28, 2023 at 2:10 PM

Section 5104.022 | Licensing of foster homes as family day care homes.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

In no case shall the director of job and family services issue a license to operate a type A family child care home if the type A home is certified as a foster home or specialized foster home pursuant to Chapter 5103. of the Revised Code. In no case shall the director issue a license to operate a type B family child care home if the type B home is certified as a specialized foster home pursuant to Chapter 5103. of the Revised Code.

Last updated August 28, 2023 at 2:13 PM

Section 5104.03 | Application for and renewal of license.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) As used in this section, "owner" has the same meaning as in section [5104.01](#) of the Revised Code, except that "owner" also includes a firm, organization, institution, or agency, as well as any individual governing board members, partners, or authorized representatives of the owner.

(B) Any person, firm, organization, institution, or agency seeking to establish a child care center, type A family child care home, or licensed type B family child care home shall apply for a license to the director of job and family services on such form as the director prescribes. The director shall provide at no charge to each applicant for licensure a copy of the child care license requirements in this chapter and a copy of the rules adopted pursuant to this chapter. The copies may be provided in paper or electronic form.

Fees shall be set by the director pursuant to sections [5104.015](#), [5104.017](#), and [5104.018](#) of the Revised Code and shall be paid at the time of application for a license to operate a center, type A home, or type B home. Fees collected under this section shall be paid into the state treasury to the credit of the general revenue fund.

(C)(1) Upon filing of the application for a license, the director shall investigate and inspect the center, type A home, or type B home to determine the license capacity for each age

category of children of the center, type A home, or type B home and to determine whether the center, type A home, or type B home complies with this chapter and rules adopted pursuant to this chapter. When, after investigation and inspection, the director is satisfied that this chapter and rules adopted pursuant to it are complied with, subject to division (G) of this section, a license shall be issued as soon as practicable in such form and manner as prescribed by the director. The license shall be designated as provisional and shall be valid for at least twelve months from the date of issuance and until the continuous license is issued or until the provisional license is revoked or suspended pursuant to section [5104.042](#) of the Revised Code.

(2) The director may contract with a government entity or a private nonprofit entity for the entity to inspect type A or type B family child care homes pursuant to this section. If the director contracts with a government entity or private nonprofit entity for that purpose, the entity may contract with another government entity or private nonprofit entity for the other entity to inspect type A or type B homes pursuant to this section. The director, government entity, or private nonprofit entity shall conduct an inspection prior to the issuance of a license for a type A or type B home and, as part of that inspection, ensure that the home is safe and sanitary.

(D) The director shall investigate and inspect the center, type A home, or type B home at least once during operation under a license designated as provisional. If after the investigation and inspection the director determines that the requirements of this chapter and rules adopted pursuant to this chapter are met, subject to division (G) of this section, the director shall issue a continuous license to the center or home.

(E) Each license shall state the name of the licensee, the name of the administrator, the address of the center, type A home, or licensed type B home, and the license capacity for each age category of children. The license shall include thereon, in accordance with sections [5104.015](#), [5104.017](#), and [5104.018](#) of the Revised Code, the toll-free telephone number to be used by persons suspecting that the center, type A home, or licensed type B

home has violated a provision of this chapter or rules adopted pursuant to this chapter. A license is valid only for the licensee, administrator, address, and license capacity for each age category of children designated on the license. The license capacity specified on the license is the maximum number of children in each age category that may be cared for in the center, type A home, or licensed type B home at one time.

A center or home licensee shall notify the director in writing when the administrator, address, or license capacity of the center or home changes. The director shall amend the current license to reflect a change in any of the following:

- (1) An administrator, if the administrator meets the requirements of this chapter and rules adopted pursuant to this chapter;
- (2) Address, if the new address meets the requirements of this chapter and rules adopted pursuant to this chapter;
- (3) License capacity for any age category of children as determined by the director of job and family services.

(F) If the director revokes the license of a center, a type A home, or a type B home, the director shall not issue another license to the owner of the center, type A home, or type B home until five years have elapsed from the date the license is revoked.

If the director denies an application for a license, the director shall not consider another application from the applicant until five years have elapsed from the date the application is denied.

(G)(1) Except as provided in division (G)(2) of this section, all actions of the director with respect to licensing centers, type A homes, or type B homes, refusal to license, and revocation of a license shall be in accordance with Chapter 119. of the Revised Code. Except as provided in division (G)(2) of this section, any applicant who is denied a license

or any owner whose license is revoked may appeal in accordance with section [119.12](#) of the Revised Code.

(2) The following actions by the director are not subject to Chapter 119. of the Revised Code:

(a) The director ceases its review of an application because the owner of a center, type A home, or type B home sought a license before five years had elapsed from the date the previous license was revoked and the director does not issue the license.

(b) The director ceases its review of an application because the applicant applied for licensure before five years had elapsed from the date the previous application was denied and the director does not issue the license.

(c) The director closes a license because the director has determined that the center, type A home, or type B home is no longer operating at the address stated on the license and did not notify the director of the address change as described in division (E) of this section.

(H) In no case shall the director issue a license under this section for a center, type A home, or type B home if the director, based on documentation provided by the appropriate county department of job and family services, determines that the applicant had been certified as an in-home aide, that the county department revoked that certification within the immediately preceding five years, that the revocation was based on the applicant's refusal or inability to comply with the criteria for certification, and that the refusal or inability resulted in a risk to the health or safety of children.

(I) An owner of a type B family child care home that receives a license pursuant to this section is an independent contractor and is not an employee of the department of job and family services.

Section 5104.032 | Physical space requirements for child day-care centers.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) The child care center shall have, for each child for whom the center is licensed, at least thirty-five square feet of usable indoor floor space wall-to-wall regularly available for the child care operation exclusive of any parts of the structure in which the care of children is prohibited by law or by rules adopted by the board of building standards. The minimum of thirty-five square feet of usable indoor floor space shall not include hallways, kitchens, storage areas, or any other areas that are not available for the care of children, as determined by the director, in meeting the space requirement of this division, and bathrooms shall be counted in determining square footage only if they are used exclusively by children enrolled in the center, except that the exclusion of hallways, kitchens, storage areas, bathrooms not used exclusively by children enrolled in the center, and any other areas not available for the care of children from the minimum of thirty-five square feet of usable indoor floor space shall not apply to:

- (1) Centers licensed prior to or on September 1, 1986, that continue under licensure after that date;
- (2) Centers licensed prior to or on September 1, 1986, that are issued a new license after that date solely due to a change of ownership of the center.

(B) The child care center shall have on the site a safe outdoor play space which is enclosed by a fence or otherwise protected from traffic or other hazards. The play space shall contain not less than sixty square feet per child using such space at any one time, and shall provide an opportunity for supervised outdoor play each day in suitable weather. The director may exempt a center from the requirement of this division, if an outdoor play space is not available and if all of the following are met:

(1) The center provides an indoor recreation area that has not less than sixty square feet per child using the space at any one time, that has a minimum of one thousand four hundred forty square feet of space, and that is separate from the indoor space required under division (A) of this section.

(2) The director has determined that there is regularly available and scheduled for use a conveniently accessible and safe park, playground, or similar outdoor play area for play or recreation.

(3) The children are closely supervised during play and while traveling to and from the area.

The director also shall exempt from the requirement of this division a child care center that was licensed prior to September 1, 1986, if the center received approval from the director prior to September 1, 1986, to use a park, playground, or similar area, not connected with the center, for play or recreation in lieu of the outdoor space requirements of this section and if the children are closely supervised both during play and while traveling to and from the area and except if the director determines upon investigation and inspection pursuant to section [5104.04](#) of the Revised Code and rules adopted pursuant to that section that the park, playground, or similar area, as well as access to and from the area, is unsafe for the children.

Last updated August 28, 2023 at 2:23 PM

Section 5104.033 | Staff to child ratios.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A)(1) A child care center shall have at least two responsible adults available on the premises at all times when seven or more children are in the center. The center shall organize the children in the center in small groups, shall provide child care staff to give continuity of care and supervision to the children on a day-by-day basis, and shall ensure

that no child is left alone or unsupervised. Except as otherwise provided in division (B) of this section, the maximum number of children per child care staff member and maximum group size, by age category of children, are as follows:

Age Category of Children	Maximum Number of Children Per child care Staff Member	Maximum Group Size
(a) Infants:		
(i) Less than twelve months old	5:1, or 12:2 if two child care staff members are in the room	12
(ii) At least twelve months old, but less than eighteen months old	6:1	12
(b) Toddlers:		
(i) At least eighteen months old, but less than thirty months old	7:1	14
(ii) At least thirty months old, but less than three years old	8:1	16
(c) Preschool-age children:		
(i) Three years old	12:1	24
(ii) Four years old and five years old who are not school children	14:1	28
(d) School-age children		
(i) A child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above, but is less than eleven years old	18:1	36
(ii) Eleven through fourteen years old	20:1	40

(2) Except as otherwise provided in division (B) of this section, the maximum number of children per child care staff member and maximum group size requirements of the

younger age group shall apply when age groups are combined.

(B)(1) When age groups are combined, the maximum number of children per child care staff member shall be determined by the age of the youngest child in the group, except that when no more than one child thirty months of age or older receives services in a group in which all the other children are in the next older age group, the maximum number of children per child care staff member and maximum group size requirements of the older age group established under division (A) of this section shall apply.

(2) The maximum number of toddlers or preschool-age children per child care staff member in a room where children are napping shall be twice the maximum number of children per child-care staff member established under division (A) of this section if all the following criteria are met:

(a) At least one child care staff member is present in the room.

(b) Sufficient child care staff members are on the child care center premises to meet the maximum number of children per child care staff member requirements established under division (A) of this section.

(c) Naptime preparations are complete and all napping children are resting or sleeping on cots.

(d) The maximum number established under division (B)(2) of this section is in effect for no more than two hours during a twenty-four-hour day.

Last updated August 28, 2023 at 2:35 PM

Section 5104.034 | Trained staff required on premises.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

Each child care center shall have on the center premises and readily available at all times at least one child care staff member who has completed a course in first aid, one staff member who has completed a course in prevention, recognition, and management of communicable diseases which is approved by the state department of health, and a staff member who has completed a course in child abuse recognition and prevention training which is approved by the department of job and family services.

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Section 5104.037 | Tuberculosis screening, testing of prospective employees.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) As used in this section:

(1) "Active tuberculosis" has the same meaning as in section [339.71](#) of the Revised Code.

(2) "Latent tuberculosis" means tuberculosis that has been demonstrated by a positive reaction to a tuberculosis test but has no clinical, bacteriological, or radiographic evidence of active tuberculosis.

(3) "Licensed health professional" means any of the following:

(a) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) A physician assistant who holds a current, valid license to practice as a physician assistant issued under Chapter 4730. of the Revised Code;

(c) A certified nurse practitioner as defined in section [4723.01](#) of the Revised Code;

(d) A clinical nurse specialist as defined in section [4723.01](#) of the Revised Code.

(4) "Tuberculosis control unit" means the county tuberculosis control unit designated by a board of county commissioners under section [339.72](#) of the Revised Code or the district tuberculosis control unit designated pursuant to an agreement entered into by two or more boards of county commissioners under that section.

(5) "Tuberculosis test" means either of the following:

(a) A two-step Mantoux tuberculin skin test;

(b) A blood assay for m. tuberculosis.

(B) Before employing a person as an administrator or employee, for the purpose of tuberculosis screening, each child care center shall determine if the person has done both of the following:

(1) Resided in a country identified by the world health organization as having a high burden of tuberculosis;

(2) Arrived in the United States within the five years immediately preceding the date of application for employment.

(C) If the person meets the criteria described in division (B) of this section, the center shall require the person to undergo a tuberculosis test before employment. If the result of the test is negative, the center may employ the person.

(D) If the result of any tuberculosis test performed as described in division (C) of this section is positive, the center shall require the person to undergo additional testing for tuberculosis, which may include a chest radiograph or the collection and examination of specimens.

(1) If additional testing indicates active tuberculosis, then until the person is no longer infectious as determined by the county tuberculosis unit, the center shall not employ the

person or, if employed, shall not allow the person to be physically present at the center's location.

For purposes of this section, evidence that a person is no longer infectious shall consist of a written statement to that effect signed by a representative of the tuberculosis control unit.

(2) If additional testing indicates latent tuberculosis, then until the person submits to the program evidence that the person is receiving treatment as prescribed by a licensed health professional, the preschool program shall not employ the person or, if employed, shall not allow the person to be physically present at the program's location. Once the person submits to the program evidence that the person is in the process of completing a tuberculosis treatment regimen as prescribed by a licensed health professional, the preschool program may employ the person and allow the person to be physically present at the program's location so long as periodic evidence of compliance with the treatment regimen is submitted in accordance with rules adopted under section [3701.146](#) of the Revised Code.

For purposes of this section, evidence that a person is in the process of completing and is compliant with a tuberculosis treatment regimen shall consist of a written statement to that effect signed by the tuberculosis control unit that is overseeing the person's treatment.

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Section 5104.038 | Enrollment, health, and attendance records.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

The administrator of each child care center shall maintain enrollment, health, and attendance records for all children attending the center and health and employment records for all center employees. The records shall be confidential, except that they shall be

disclosed by the administrator to the director upon request for the purpose of administering and enforcing this chapter and rules adopted pursuant to this chapter. Neither the center nor the licensee, administrator, or employees of the center shall be civilly or criminally liable in damages or otherwise for records disclosed to the director by the administrator pursuant to this division. It shall be a defense to any civil or criminal charge based upon records disclosed by the administrator to the director that the records were disclosed pursuant to this division.

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Section 5104.039 | Access to centers for parents or guardians.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) Any parent who is the residential parent and legal custodian of a child enrolled in a child care center and any custodian or guardian of such a child shall be permitted unlimited access to the center during its hours of operation for the purposes of contacting their children, evaluating the care provided by the center, evaluating the premises of the center, or for other purposes approved by the director. A parent of a child enrolled in a child care center who is not the child's residential parent shall be permitted unlimited access to the center during its hours of operation for those purposes under the same terms and conditions under which the residential parent of that child is permitted access to the center for those purposes. However, the access of the parent who is not the residential parent is subject to any agreement between the parents and, to the extent described in division (B) of this section, is subject to any terms and conditions limiting the right of access of the parent who is not the residential parent, as described in division (I) of section [3109.051](#) of the Revised Code, that are contained in a parenting time order or decree issued under that section, section [3109.12](#) of the Revised Code, or any other provision of the Revised Code.

(B) If a parent who is the residential parent of a child has presented the administrator or the administrator's designee with a copy of a parenting time order that limits the terms and conditions under which the parent who is not the residential parent is to have access to the center, as described in division (I) of section [3109.051](#) of the Revised Code, the parent who is not the residential parent shall be provided access to the center only to the extent authorized in the order. If the residential parent has presented such an order, the parent who is not the residential parent shall be permitted access to the center only in accordance with the most recent order that has been presented to the administrator or the administrator's designee by the residential parent or the parent who is not the residential parent.

(C) Upon entering the premises pursuant to division (A) or (B) of this section, the parent who is the residential parent and legal custodian, the parent who is not the residential parent, or the custodian or guardian shall notify the administrator or the administrator's designee of the parent's, custodian's, or guardian's presence.

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Section 5104.04 | Investigating, inspecting, and licensing procedures established.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) The department of job and family services shall establish procedures to be followed in investigating, inspecting, and licensing child care centers, type A family child care homes, and licensed type B family child care homes.

(B)(1)(a) The department shall, at least once during every twelve-month period of operation of a center, type A home, or licensed type B home, inspect the center, type A home, or licensed type B home. The department shall inspect a part-time center or part-time type A home at least once during every twelve-month period of operation. The

department shall provide a written inspection report to the licensee within a reasonable time after each inspection.

Inspections may be unannounced. No person, firm, organization, institution, or agency shall interfere with the inspection of a center, type A home, or licensed type B home by any state or local official engaged in performing duties required of the state or local official by this chapter or rules adopted pursuant to this chapter, including inspecting the center, type A home, or licensed type B home, reviewing records, or interviewing licensees, employees, children, or parents.

(b) Upon receipt of any complaint that a center, type A home or licensed type B home is out of compliance with the requirements of this chapter or rules adopted pursuant to this chapter, the department shall investigate the center or home, and both of the following apply:

(i) If the complaint alleges that a child suffered physical harm while receiving child care at the center or home or that the noncompliance alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving child care at the center or home, the department shall inspect the center or home.

(ii) If division (B)(1)(b)(i) of this section does not apply regarding the complaint, the department may inspect the center or home.

(c) Division (B)(1)(b) of this section does not limit, restrict, or negate any duty of the department to inspect a center, type A home, or licensed type B home that otherwise is imposed under this section, or any authority of the department to inspect a center, type A home, or licensed type B home that otherwise is granted under this section.

(2) If the department implements an instrument-based program monitoring information system, it may use an indicator checklist to comply with division (B)(1) of this section.

(C) The department may deny an application or revoke a license of a center, type A home, or licensed type B home, if the applicant knowingly submits falsified information to the department or if the center or home does not comply with the requirements of this chapter or rules adopted pursuant to this chapter.

(D) If the department finds, after notice and hearing pursuant to Chapter 119. of the Revised Code, that any applicant, person, firm, organization, institution, or agency applying for licensure or licensed under section [5104.03](#) of the Revised Code is in violation of any provision of this chapter or rules adopted pursuant to this chapter, the department may issue an order of denial to the applicant or an order of revocation to the center, type A home, or licensed type B home revoking the license previously issued by the department. Upon the issuance of such an order, the person whose application is denied or whose license is revoked may appeal in accordance with section [119.12](#) of the Revised Code.

(E) The surrender of a center, type A home, or licensed type B home license to the department or the withdrawal of an application for licensure by the owner or administrator of the center, type A home, or licensed type B home shall not prohibit the department from instituting any of the actions set forth in this section.

(F) Whenever the department receives a complaint, is advised, or otherwise has any reason to believe that a center or type A home is providing child care without a license issued pursuant to section [5104.03](#) and is not exempt from licensing pursuant to section [5104.02](#) of the Revised Code, the department shall investigate the center or type A home and may inspect the areas children have access to or areas necessary for the care of children in the center or type A home during suspected hours of operation to determine whether the center or type A home is subject to the requirements of this chapter or rules adopted pursuant to this chapter.

(G) The department, upon determining that the center or type A home is operating without a license, shall notify the attorney general, the prosecuting attorney of the county

in which the center or type A home is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the center or type A home is located, that the center or type A home is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the center or type A home is located requesting that the court grant an order enjoining the owner from operating the center or type A home in violation of section [5104.02](#) of the Revised Code. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a center or type A home and is doing so without a license.

(H) The department shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

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Section 5104.041 | Type A and B family day-care home requirements.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) All type A family child care homes and licensed type B family child care homes shall procure and maintain one of the following:

(1) Liability insurance issued by an insurer authorized to do business in this state under Chapter 3905. of the Revised Code insuring the type A or type B family child care home against liability arising out of, or in connection with, the operation of the family child care home. The insurance procured shall cover any cause for which the type A or type B family

child care home would be liable, in the amount of at least one hundred thousand dollars per occurrence and three hundred thousand dollars in the aggregate.

(2) A written statement signed by the parent, guardian, or custodian of each child receiving child care from the type A or type B family child care home that states all of the following:

(a) The family child care home does not carry liability insurance described in division (A)(1) of this section;

(b) If the licensee of a type A family child care home or a type B family child care home is not the owner of the real property where the family child care home is located, the liability insurance, if any, of the owner of the real property may not provide for coverage of any liability arising out of, or in connection with, the operation of the family child care home.

(B) If the licensee of a type A family child care home or a type B family child care home is not the owner of the real property where the family child care home is located and the family child care home procures liability insurance described in division (A)(1) of this section, that licensee shall name the owner of the real property as an additional insured party on the liability insurance policy if all of the following apply:

(1) The owner of the real property requests the licensee or provider, in writing, to add the owner of the real property to the liability insurance policy as an additional insured party.

(2) The addition of the owner of the real property does not result in cancellation or nonrenewal of the insurance policy procured by the type A or type B family child care home.

(3) The owner of the real property pays any additional premium assessed for coverage of the owner of the real property.

(C) Proof of insurance or written statement required under division (A) of this section shall be maintained at the type A or type B family child care home and made available for review

during inspection or investigation as required under this chapter.

(D) The director of job and family services shall adopt rules for the enforcement of this section.

Last updated August 28, 2023 at 3:48 PM

Section 5104.042 | Suspension of day-care center and home licenses without hearing.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) The department of job and family services may suspend, without a prior hearing, the license of a child care center, type A family child care home, or licensed type B family child care home if any of the following occur:

(1) A child dies or suffers a serious injury while receiving child care in the center, type A home, or licensed type B home.

(2) A public children services agency receives a report pursuant to section [2151.421](#) of the Revised Code, and the person alleged to have inflicted abuse or neglect on the child who is the subject of the report is any of the following:

(a) The owner, licensee, or administrator of the center, type A home, or licensed type B home;

(b) An employee of the center, type A home, or licensed type B home who has not immediately been placed on administrative leave or released from employment;

(c) Any person who resides in the type A home or licensed type B home.

(3) An owner, licensee, administrator, or employee of the center, type A home, or licensed type B home, or a resident of the type A home or licensed type B home is charged by an

indictment, information, or complaint with an offense relating to the abuse or neglect of a child.

(4) The department or a county department of job and family services determines that the center, type A home, or licensed type B home created a serious risk to the health or safety of a child receiving child care in the center, type A home, or licensed type B home that resulted in or could have resulted in a child's death or injury.

(5) The department determines that the owner or licensee of the center, type A home, or licensed type B home does not meet the requirements of section [5104.013](#) of the Revised Code.

(B) The department shall serve a written order of suspension on the licensee as described in sections [119.05](#) and [119.07](#) of the Revised Code. The licensee may request an adjudicatory hearing before the department pursuant to sections [119.06](#) to [119.12](#) of the Revised Code.

(C) Any summary suspension imposed under this section shall remain in effect until any of the following occurs:

(1) The public children services agency completes its investigation of the report pursuant to section [2151.421](#) of the Revised Code and determines that all of the allegations are unsubstantiated.

(2) All criminal charges are disposed of through dismissal or a finding of not guilty.

(3) The department issues pursuant to Chapter 119. of the Revised Code a final order terminating the suspension.

(D) The center, type A home, or licensed type B home shall not provide child care while the summary suspension remains in effect. Upon issuance of the order of suspension, the

licensee shall inform the caretaker parent of each child receiving child care in the center, type A home, or licensed type B home of the suspension.

(E) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and procedures for the summary suspension of licenses.

(F) This section does not limit the authority of the department to revoke a license pursuant to section [5104.04](#) of the Revised Code.

Last updated August 31, 2023 at 9:35 AM

Section 5104.043 | Determination of serious risk of noncompliance; notice.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) If the department of job and family services determines that an act or omission of a child care center, type A family child care home, or licensed type B family child care home constitutes a serious risk noncompliance, the licensee shall notify the caretaker parent of each child receiving care in the center or home of the department's determination.

(B) With respect to the notice required by division (A) of this section, all of the following apply:

(1) The licensee shall notify caretaker parents not later than fifteen business days after the department informs the licensee of the department's determination. If the licensee requests a review of the department's determination, the licensee shall notify caretaker parents not later than five business days after the department has completed its review.

(2) The notice shall include a statement informing each caretaker parent of the web site maintained by the department and the location of further information regarding the determination.

(3) The licensee may provide written or electronic notice to caretaker parents.

(4) The licensee shall provide a copy of the notice to the department.

(C) The director of job and family services shall adopt rules to enforce this section.

(D) The requirements of this section do not apply if the department suspends the license of a child care center, type A family child care home, or licensed type B family child care home pursuant to section [5104.042](#) of the Revised Code.

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Section 5104.05 | Requirements for building, fire prevention, and food service.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) The director of job and family services shall issue a license or provisional license for the operation of a child care center, if the director finds, after investigation of the applicant and inspection of the center, that other requirements of this chapter, rules promulgated pursuant to this chapter, and the following requirements are met:

(1) The buildings in which the center is housed, subsequent to any major modification, have been approved by the department of commerce or a certified municipal, township, or county building department for the purpose of operating a child care center. Any structure used for the operation of a center shall be constructed, equipped, repaired, altered, and maintained in accordance with applicable provisions of Chapters 3781. and 3791. of the Revised Code and with regulations adopted by the board of building standards under Chapter 3781. of the Revised Code and this division for the safety and sanitation of structures erected for this purpose.

(2) The state fire marshal or the fire chief or fire prevention officer of the municipal corporation or township in which the center is located has inspected the center annually

within the preceding license period and has found the center to be in compliance with rules promulgated by the fire marshal pursuant to section [3737.83](#) of the Revised Code regarding fire prevention and fire safety in a child care center.

(3) The center has received a food service operation license under Chapter 3717. of the Revised Code if meals are to be served to children other than children of the licensee or administrator, whether or not a consideration is received for the meals.

(B) The director of job and family services shall issue a license or provisional license for the operation of a type A family child care home, if the director finds, after investigation of the applicant and inspection of the type A home, that other requirements of this chapter, rules promulgated pursuant to this chapter, and the following requirements are met:

(1) The state fire marshal or the fire chief or fire prevention officer of the municipal corporation or township in which the type A family child care home is located has inspected the type A home annually within the preceding license period and has found the type A home to be in compliance with rules promulgated by the fire marshal pursuant to section [3737.83](#) of the Revised Code regarding fire prevention and fire safety in a type A home.

(2) The type A home is in compliance with rules set by the director of job and family services in cooperation with the director of health pursuant to section [3701.80](#) of the Revised Code regarding meal preparation and meal service in the home. The director of job and family services, in accordance with procedures recommended by the director of health, shall inspect each type A home to determine compliance with those rules.

(3) The type A home is in compliance with rules promulgated by the director of job and family services in cooperation with the board of building standards regarding safety and sanitation pursuant to section [3781.10](#) of the Revised Code.

Section 5104.051 | Responsibility for inspections.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A)(1) The department of commerce is responsible for the inspections of child care centers as required by division (A)(1) of section [5104.05](#) of the Revised Code. Where there is a municipal, township, or county building department certified under section [3781.10](#) of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes child care centers, all inspections required under division (A)(1) of section [5104.05](#) of the Revised Code shall be made by that department according to the standards established by the board of building standards. Inspections in areas of the state where there is no municipal, township, or county building department certified under section [3781.10](#) of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes child care centers shall be made by personnel of the department of commerce. Inspections of centers shall be contingent upon payment of a fee by the applicant to the department having jurisdiction to inspect.

(2) The department of commerce is responsible for the inspections of type A family child care homes as required by division (B)(3) of section [5104.05](#) of the Revised Code. Where there is a municipal, township, or county building department certified under section [3781.10](#) of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes type A homes, all inspections required under division (B)(3) of section [5104.05](#) of the Revised Code shall be made by that department according to the standards established by the board of building standards. Inspections in areas of the state where there is no municipal, township, or county building department certified under section [3781.10](#) of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes type A homes shall be made by personnel of the department of commerce. Inspections of type A homes shall be contingent upon payment of a fee by the applicant to the department having jurisdiction to inspect.

(B) The state fire marshal is responsible for the inspections required by divisions (A)(2) and (B)(1) of section [5104.05](#) of the Revised Code. In municipal corporations and in townships outside municipal corporations where there is a fire prevention official, the inspections shall be made by the fire chief or the fire prevention official under the supervision of and according to the standards established by the state fire marshal. In townships outside municipal corporations where there is no fire prevention official, inspections shall be made by the employees of the state fire marshal.

(C) The state fire marshal shall enforce all statutes and rules pertaining to fire safety and fire prevention in child care centers and type A family child care homes. In the event of a dispute between the state fire marshal and any other responsible officer under sections [5104.05](#) and [5104.051](#) of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the state fire marshal shall prevail.

(D) As used in this division, "licensor" has the same meaning as in section [3717.01](#) of the Revised Code.

The licensor for food service operations in the city or general health district in which the center is located is responsible for the inspections required under Chapter 3717. of the Revised Code.

(E) Any moneys collected by the department of commerce under this section shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section [121.084](#) of the Revised Code.

Last updated August 31, 2023 at 9:48 AM

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

The director of job and family services, in cooperation with the fire marshal pursuant to section [3737.22](#) of the Revised Code, shall adopt rules regarding fire prevention and fire safety in licensed type B family child care homes. In accordance with those rules, the director shall inspect each type B home that applies to be licensed that is providing or is to provide publicly funded child care.

Last updated August 31, 2023 at 9:50 AM

Section 5104.053 | Inspecting unlicensed type B homes.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

As a precondition of approval by the department of education and workforce pursuant to section [3313.813](#) of the Revised Code for receipt of United States department of agriculture child and adult care food program funds established under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, the provider of child care in a type B family child care home that is not licensed by the director of job and family services shall request an inspection of the type B home by the fire marshal, who shall inspect the type B home pursuant to section [3737.22](#) of the Revised Code to determine that it is in compliance with rules established pursuant to section [5104.052](#) of the Revised Code for licensed type B homes.

Last updated August 31, 2023 at 9:54 AM

Section 5104.054 | Zoning for type B family day-care home.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

Any type B family child care home, whether licensed or not licensed by the director of job and family services, shall be considered to be a residential use of property for purposes of municipal, county, and township zoning and shall be a permitted use in all zoning districts

in which residential uses are permitted. No municipal, county, or township zoning regulations shall require a conditional use permit or any other special exception certification for any such type B family child care home.

Last updated August 31, 2023 at 9:57 AM

Section 5104.06 | Providing consultation and technical assistance.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) The director of job and family services shall provide consultation, technical assistance, and training to child care centers, type A family child care homes, and type B family child care homes to improve programs and facilities providing child care. As part of these activities, the director shall provide assistance in meeting the requirements of this chapter and rules adopted pursuant to this chapter and shall furnish information regarding child abuse identification and reporting of child abuse.

(B) The director of job and family services shall provide consultation and technical assistance to county departments of job and family services to assist the departments with the implementation of certification of in-home aides.

Last updated August 31, 2023 at 10:00 AM

Section 5104.07 | Additional requirements for licensing child day-care centers or type A family day-care homes that provide publicly funded child day-care.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) The director of job and family services may prescribe additional requirements for licensing child care centers or type A family child care homes that provide publicly funded child care pursuant to this chapter and any rules adopted under it. The director shall

develop standards as required by federal laws and regulations for child care programs supported by federal funds.

(B)(1) On or before February 28, 1992, the department of job and family services shall develop a statewide plan for child care resource and referral services. The plan shall be based upon the experiences of other states with respect to child care resource and referral services, the experiences of communities in this state that have child care resource and referral service organizations, and the needs of communities in this state that do not have child care resource and referral service organizations. The plan shall be designed to ensure that child care resource and referral services are available in each county in the state to families who need child care. The department shall consider the special needs of migrant workers when it develops the plan and shall include in the plan procedures designed to accommodate the needs of migrant workers.

(2) In addition to the requirements described in division (B)(1) of this section, the plan shall include all of the following:

(a) A description of the services that a child care resource and referral service organization is required to provide to families who need child care;

(b) The qualifications for a child care resource and referral service organization;

(c) A description of the procedures for providing federal and state funding for county or multicounty child care resource and referral service organizations;

(d) A timetable for providing child care resource and referral services to all communities in the state;

(e) Uniform information gathering and reporting procedures that are designed to be used in compatible computer systems;

(f) Procedures for establishing statewide nonprofit technical assistance services to coordinate uniform data collection and to publish reports on child care supply, demand, and cost and to provide technical assistance to communities that do not have child care resource and referral service organizations and to existing child care resource and referral service organizations;

(g) Requirements governing contracts entered into under division (C) of this section, which may include limits on the percentage of funds distributed by the department that may be used for the contracts.

(C) Child care resource and referral service organizations receiving funds distributed by the department may enter into contracts with local governmental entities, nonprofit organizations including nonprofit organizations that provide child care, and individuals under which the entities, organizations, or individuals may provide child care resource and referral services in the community with those funds, if the contracts are submitted to and approved by the department prior to execution.

Last updated August 31, 2023 at 10:04 AM

Section 5104.08 | Day-care advisory council.

Effective: October 3, 2023 ***Latest Legislation:*** House Bill 33 - 135th General Assembly

(A) There is hereby created in the department of job and family services a child care advisory council to advise and assist the department in the administration of this chapter and in the development of child care. The council shall consist of twenty-two voting members appointed by the director of job and family services with the approval of the governor. The director of job and family services, the director of developmental disabilities, the director of mental health and addiction services, the director of education and workforce, the director of health, the director of commerce, and the state fire marshal shall serve as nonvoting members of the council.

Six members shall be representatives of child care centers subject to licensing, the members to represent a variety of centers, including nonprofit and proprietary, from different geographical areas of the state. At least three members shall be parents, guardians, or custodians of children receiving child care or publicly funded child care in the child's own home, a center, a type A home, a head start program, a licensed type B home, or a type B home at the time of appointment. Three members shall be representatives of in-home aides, type A homes, licensed type B homes, or type B homes or head start programs. At least six members shall represent county departments of job and family services. The remaining members shall be representatives of the teaching, child development, and health professions, and other individuals interested in the welfare of children. At least six members of the council shall not be employees or licensees of a child care center, head start program, or type A home, or providers operating a licensed type B home or type B home, or in-home aides.

Appointments shall be for three-year terms. Vacancies shall be filled for the unexpired terms. A member of the council is subject to removal by the director of job and family services for a willful and flagrant exercise of authority or power that is not authorized by law, for a refusal or willful neglect to perform any official duty as a member of the council imposed by law, or for being guilty of misfeasance, malfeasance, nonfeasance, or gross neglect of duty as a member of the council.

There shall be two co-chairpersons of the council. One co-chairperson shall be the director of job and family services or the director's designee, and one co-chairperson shall be elected by the members of the council. The council shall meet as often as is necessary to perform its duties, provided that it shall meet at least once in each quarter of each calendar year and at the call of the co-chairpersons. The co-chairpersons or their designee shall send to each member a written notice of the date, time, and place of each meeting.

Members of the council shall serve without compensation, but shall be reimbursed for necessary expenses.

(B) The child care advisory council shall advise the director on matters affecting the licensing of centers, type A homes, and type B homes and the certification of in-home aides. The council shall make an annual report to the director of job and family services that addresses the availability, affordability, accessibility, and quality of child care and that summarizes the recommendations and plans of action that the council has proposed to the director during the preceding fiscal year. The director of job and family services shall provide copies of the report to the governor, speaker and minority leader of the house of representatives, and the president and minority leader of the senate and, on request, shall make copies available to the public.

(C) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Last updated August 31, 2023 at 10:10 AM

Section 5104.081 | Management of day-care functions.

Effective: May 18, 2005 **Latest Legislation:** House Bill 11 - 125th General Assembly

The department of job and family services shall employ at least one senior-level, full-time employee who shall manage and oversee all child care functions under the authority of the department.

Last updated September 6, 2023 at 11:09 AM

Section 5104.09 | Discrimination prohibited.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

No administrator, employee, licensee, or child care staff member shall discriminate in the enrollment of children in a child care center, type A home, licensed type B home, or

approved child day camp upon the basis of race, color, religion, sex, disability, or national origin.

Last updated August 31, 2023 at 10:12 AM

Section 5104.10 | Whistleblower protection.

Effective: July 1, 2000 **Latest Legislation:** House Bill 471 - 123rd General Assembly

No employer shall discharge, demote, suspend, or threaten to discharge, demote, suspend, or in any manner discriminate against any employee based solely on the employee taking any of the following actions:

- (A) Making any good faith oral or written complaint to the director of job and family services or other agency responsible for enforcing Chapter 5104. of the Revised Code regarding a violation of this chapter or the rules adopted pursuant to Chapter 5104. of the Revised Code;
- (B) Instituting or causing to be instituted any proceeding against the employer under section [5104.04](#) of the Revised Code;
- (C) Acting as a witness in any proceeding under section [5104.04](#) of the Revised Code;
- (D) Refusing to perform work that constitutes a violation of Chapter 5104., or the rules adopted pursuant to Chapter 5104. of the Revised Code.

Last updated September 6, 2023 at 11:11 AM

Section 5104.12 | Certification of in-home aides to provide publicly funded child day-care.

Effective: October 17, 2019 **Latest Legislation:** House Bill 166 - 133rd General Assembly

(A)(1) A county director of job and family services may certify in-home aides to provide publicly funded child care pursuant to this chapter and any rules adopted under it. Any in-home aide who receives a certificate pursuant to this section to provide publicly funded child care is an independent contractor and is not an employee of the county department of job and family services that issues the certificate.

(2) Every person desiring to receive certification as an in-home aide shall apply for certification to a county director of job and family services on such forms as the director of job and family services prescribes. A county director shall provide at no charge to each applicant a copy of rules for certifying in-home aides adopted pursuant to this chapter.

(B) To be eligible for certification as an in-home aide, a person shall not be either of the following:

(1) The owner of a center or home whose license was revoked pursuant to section [5104.04](#) of the Revised Code within the previous five years;

(2) An in-home aide whose certificate was revoked under division (C)(2) of this section within the previous five years.

(C)(1) If the county director of job and family services determines that the applicant complies with this chapter and any rules adopted under it, the county director shall certify the person as an in-home aide and issue the person a certificate to provide publicly funded child care for twenty-four months. The county director shall furnish a copy of the certificate to the parent, custodian, or guardian. The certificate shall state the name and address of the in-home aide, the expiration date of the certification, and the name and telephone number of the county director who issued the certificate.

(2) The county director may revoke the certificate in either of the following circumstances:

(a) The county director determines, pursuant to rules adopted under Chapter 119. of the Revised Code, that revocation is necessary;

(b) The in-home aide does not comply with division (C)(2) of section [5104.32](#) of the Revised Code.

(D)(1) The county director of job and family services shall inspect every home of a child who is receiving publicly funded child care in the child's own home while the in-home aide is providing the services. Inspections may be unannounced. Upon receipt of a complaint, the county director shall investigate the in-home aide, shall investigate the home of a child who is receiving publicly funded child care in the child's own home, and division (D)(2) of this section applies regarding the complaint. The caretaker parent shall permit the county director to inspect any part of the child's home. The county director shall prepare a written inspection report and furnish one copy each to the in-home aide and the caretaker parent within a reasonable time after the inspection.

(2) Upon receipt of a complaint as described in division (D)(1) of this section, in addition to the investigations that are required under that division, both of the following apply:

(a) If the complaint alleges that a child suffered physical harm while receiving publicly funded child care in the child's own home from an in-home aide or that the noncompliance with law or act alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving publicly funded child care in the child's own home from an in-home aide, the county director shall inspect the home of the child.

(b) If division (D)(2)(a) of this section does not apply regarding the complaint, the county director may inspect the home of the child.

(3) Division (D)(2) of this section does not limit, restrict, or negate any duty of the county director to inspect a home of a child who is receiving publicly funded child care from an

in-home aide that otherwise is imposed under this section, or any authority of the county director to inspect such a home that otherwise is granted under this section when the county director believes the inspection is necessary and it is permitted under the grant.

Last updated September 6, 2023 at 11:12 AM

Section 5104.13 | Publishing state statutes and rules governing certification of type B family day-care homes.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

The department of job and family services shall prepare a guide describing the state statutes and rules governing the licensure of type B family child care homes. The department may publish the guide electronically or otherwise and shall do so in a manner that the guide is accessible to the public, including type B home providers.

Last updated August 31, 2023 at 10:15 AM

Section 5104.14 | Readability of materials.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

All materials that are supplied by the department of job and family services to type A family child care home providers, type B family child care home providers, in-home aides, persons seeking to be type A family child care home providers, type B family child care home providers, or in-home aides, and caretaker parents shall be written at no higher than the sixth grade reading level. The department may employ a readability expert to verify its compliance with this section.

Last updated August 31, 2023 at 10:18 AM

Section 5104.21 | Child day camp registration.

Effective: October 17, 2019 **Latest Legislation:** House Bill 166 - 133rd General Assembly

(A) The department of job and family services shall register child day camps and enforce this section and sections [5104.211](#) and [5104.22](#) of the Revised Code and the rules adopted pursuant to those sections. No person, firm, organization, institution, or agency shall operate a child day camp without annually registering with the department.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the provisions of this section and sections [5104.211](#) and [5104.22](#) of the Revised Code:

(1) A child day camp that operates for two consecutive weeks or less and for no more than a total of two weeks during each calendar year;

(2) Supervised training, instruction, or activities of children that is conducted on an organized or periodic basis in specific areas or in a combination of areas for a maximum of eight hours each week, including art, drama, dance, music, athletic skill or sport, computers, or an educational subject;

(3) Programs in which the department determines that at least one parent, custodian, or guardian of each child attending or participating in the child day camp is on the child day camp activity site and is readily accessible at all times, except that a child day camp on the premises of a parent's, custodian's, or guardian's place of employment shall be registered in accordance with division (A) of this section;

(4) Child day camps regulated by any state department other than the department of job and family services;

(5) A program that provides activities for children who are five years of age or older and is operated by any county, township, municipal corporation, township park district created under section [511.18](#) of the Revised Code, park district created under section [1545.04](#) of

the Revised Code, or joint recreation district established under section [755.04](#) of the Revised Code.

(C) A person, firm, organization, institution, or agency operating a child day camp that is exempt under division (B) of this section from registering under division (A) of this section may elect to register itself under division (A) of this section. All requirements of this section and the rules adopted pursuant to this section shall apply to any exempt child day camp that so elects to register.

(D) The director of job and family services shall adopt pursuant to Chapter 119. of the Revised Code rules prescribing the registration form and establishing the procedure for the child day camps to register. The form shall state both of the following:

(1) That the child day camp administrator or the administrator's representative agrees to provide the parents of each school-age child who attends or participates in that child day camp with the telephone number of the county department of health and the public children services agency of the county in which the child day camp is located;

(2) That the child day camp administrator or the administrator's representative agrees to permit a public children services agency or the county department of health to review or inspect the child day camp if a complaint is made to that department or any other state department or public children services agency against that child day camp.

(E) The department may charge a fee to register a child day camp. The fee for each child day camp shall be twenty-five dollars. No organization that operates, or owner of, child day camps shall pay a fee that exceeds two hundred fifty dollars for all of its child day camps.

(F) If a child day camp that is required to register under this section fails to register with the department in accordance with this section or the rules adopted pursuant to it or if a child day camp that files a registration form under this section knowingly provides false or misleading information on the registration form, the department shall require the child

day camp to register or register correctly and to pay a registration fee that equals three times the registration fee as set forth in division (E) of this section.

(G) A child day camp administrator or the administrator's representative shall provide the parents of each school-age child who attends or participates in that child day camp with both of the following:

(1) Telephone numbers of the county department of health and the county public children services agency of the county in which the child day camp is located;

(2) A statement that the parents may contact the county department or agency to make a complaint regarding the child day camp.

Last updated September 6, 2023 at 11:14 AM

Section 5104.211 | Random sampling of child day camps to determine compliance with background checks.

Effective: October 17, 2019 **Latest Legislation:** House Bill 166 - 133rd General Assembly

(A) The director of job and family services may periodically conduct a random sampling of child day camps to determine compliance with section [5104.013](#) of the Revised Code.

(B)(1) No child day camp shall fail to comply with section [5104.013](#) of the Revised Code in regards to a person it appoints or employs.

(2) If the director determines that a camp has violated division (B)(1) of this section, the director shall do both of the following:

(a) Consider imposing a civil penalty on the camp in an amount that shall not exceed ten per cent of the camp's gross revenues for the full month immediately preceding the month in which the violation occurred. If the camp was not operating for the entire calendar

month preceding the month in which the violation occurred, the penalty shall be five hundred dollars.

(b) Order the camp to initiate a criminal records check of the person who is the subject of the violation within a specified period of time.

(3) If, within the specified period of time, the camp fails to comply with an order to initiate a criminal records check of the person who is the subject of the violation or to release the person from the appointment or employment, the director shall do both of the following:

(a) Impose a civil penalty in an amount that is not less than the amount previously imposed and that does not exceed twice the amount permitted by division (B)(2)(a) of this section;

(b) Order the camp to initiate a criminal records check of the person who is the subject of the violation within a specified period of time.

(C) If the director determines that a child day camp has violated division (B)(1) of this section, the director may post a notice at a prominent place at the camp that states that the camp has failed to conduct criminal records checks of its appointees or employees as required by section [5104.013](#) of the Revised Code. Once the camp demonstrates to the department that the camp is in compliance with that section, the director shall permit the camp to remove the notice.

(D) The director may include on the web site of the department of job and family services a list of child day camps that the director has determined to not be in compliance with the criminal records check requirements of section [5104.013](#) of the Revised Code. The director shall remove a camp's name from the list when the camp demonstrates to the director that the camp is in compliance with that section.

(E) For the purposes of divisions (C) and (D) of this section, a child day camp will be considered to be in compliance with section [5104.013](#) of the Revised Code by doing any of the following:

(1) Requesting that the bureau of criminal identification and investigation conduct a criminal records check regarding the person who is the subject of the violation of division (B)(1) of this section and, if the person does not qualify for the appointment or employment, releasing the person from the appointment or employment;

(2) Releasing the person who is the subject of the violation from the appointment or employment.

(F) The attorney general shall commence and prosecute to judgment a civil action in a court of competent jurisdiction to collect any civil penalty imposed under this section that remains unpaid.

(G) This section does not apply to a child day camp that is an approved child day camp.

Last updated September 6, 2023 at 11:15 AM

Section 5104.22 | Enabling approved child day camp to receive public moneys.

Effective: October 17, 2019 **Latest Legislation:** House Bill 166 - 133rd General Assembly

(A) The director of job and family services, no later than September 1, 1993, and pursuant to Chapter 119. of the Revised Code, shall adopt rules establishing a procedure and standards for the approval of child day camps that will enable an approved child day camp to receive public moneys pursuant to sections [5104.30](#) to [5104.39](#) of the Revised Code. The department of job and family services may charge a reasonable fee to inspect a child day camp to determine whether that child day camp meets the standards set forth in this

section or in the rules adopted under this section. The department shall approve any child day camp that meets both of the following:

(1) The department inspects the camp and determines that it meets the standards established in rules adopted under this section;

(2) The camp is accredited by the American camp association or a nationally recognized organization that accredits child day camps by using standards that the department has determined are substantially similar and comparable to those of the American camp association. The department shall approve a child day camp for a period of one year and shall inspect an approved child day camp on an annual basis.

(B) An approved child day camp shall comply with this section and section [5104.21](#) of the Revised Code and the rules adopted pursuant to those sections. If an approved child day camp is not in substantial compliance with those sections or rules at any time, the department shall terminate the child day camp's approval until the child day camp complies with those sections and rules or for a period of two years, whichever period is longer.

Last updated September 6, 2023 at 11:17 AM

Section 5104.25 | Prohibiting smoking.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) Except as otherwise provided in division (C) of this section, no child care center shall permit any person to smoke in any indoor or outdoor space that is part of the center.

The administrator of a child care center shall post in a conspicuous place at the main entrance of the center a notice stating that smoking is prohibited in any indoor or outdoor space that is part of the center, except under the conditions described in division (C) of this section.

(B) Except as otherwise provided in division (C) of this section, no type A family child care home or licensed type B family child care home shall permit any person to smoke in any indoor or outdoor space that is part of the home during the hours the home is in operation. Smoking may be permitted during hours other than the hours of operation if the administrator of the home has provided to a parent, custodian, or guardian of each child receiving child care at the home notice that smoking occurs or may occur at the home when it is not in operation.

The administrator of a type A family child care home or a licensed type B family child care home shall post in a conspicuous place at the main entrance of the home a notice specifying the hours the home is in operation and stating that smoking is prohibited during those hours in any indoor or outdoor space that is part of the home, except under the conditions described in division (C) of this section.

(C) A child care center, type A family child care home, or licensed type B family child care home may allow persons to smoke at the center or home during its hours of operation if those persons cannot be seen smoking by the children being cared for and if they smoke in either of the following:

(1) An indoor area that is separately ventilated from the rest of the center or home;

(2) An outdoor area that is so far removed from the children being cared for that they cannot inhale any smoke.

(D) The director of job and family services, in consultation with the director of health, shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the requirements of this section. These rules may prohibit smoking in a child care center, type A family child care home, or licensed type B family child care home if its design and structure do not allow persons to smoke under the conditions described in division (C) of

this section or if repeated violations of division (A) or (B) of this section have occurred there.

Last updated August 31, 2023 at 10:22 AM

Section 5104.29 | Step up to quality program.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) As used in this section, "early learning and development program" has the same meaning as "licensed child care program" as defined in section [5104.01](#) of the Revised Code.

(B) There is hereby created in the department of job and family services the step up to quality program, under which the department of job and family services, in cooperation with the department of education and workforce, shall develop a tiered quality rating and improvement system for all early learning and development programs in this state. The step up to quality program shall include all of the following components:

- (1) Quality program standards for early learning and development programs;
- (2) Accountability measures that include tiered ratings representing each program's level of quality;
- (3) Program and provider outreach and support to help programs meet higher standards and promote participation in the step up to quality program;
- (4) Financial incentives for early learning and development programs that provide publicly funded child care and are linked to achieving and maintaining quality standards;
- (5) Parent and consumer education to help parents learn about program quality and ratings so they can make informed choices on behalf of their children.

(C) The step up to quality program shall have the following goals:

- (1) Increasing the number of low-income children, special needs children, and children with limited English proficiency participating in quality early learning and development programs;
- (2) Providing families with an easy-to-use tool for evaluating the quality of early learning and development programs;
- (3) Recognizing and supporting early learning and development programs that achieve higher levels of quality;
- (4) Providing incentives and supports to help early learning and development programs implement continuous quality improvement systems.

(D) Under the step up to quality program, participating early learning and development programs may be eligible for grants, technical assistance, training, and other assistance. Programs that maintain a quality rating may be eligible for unrestricted monetary awards.

(E) The tiered ratings developed pursuant to this section shall be based on an early learning and development program's performance in meeting program standards in the following four domains:

- (1) Learning and development;
- (2) Administration and leadership practices;
- (3) Staff quality and professional development;
- (4) Family and community partnerships.

The ratings developed under this section shall not take into consideration whether an administrator or employee of an early learning and development program holds or obtains

a bachelor's, master's, or doctoral degree.

(F) The director of job and family services, in collaboration with the director of education and workforce, shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the step up to quality program described in this section.

Last updated September 7, 2023 at 1:35 PM

Section 5104.30 | Administration and coordination of federal and state funding for publicly funded child day-care.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) The department of job and family services is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child care in this state. Publicly funded child care shall be provided to the following:

(1) Recipients of transitional child care as provided under section [5104.34](#) of the Revised Code;

(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;

(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section [5107.16](#) of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section [5107.42](#) of the Revised Code;

(4) A family receiving publicly funded child care on October 1, 1997, until the family's income reaches one hundred fifty per cent of the federal poverty line;

(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section [5104.38](#) of the Revised Code.

The department shall apply to the United States department of health and human services for authority to operate a coordinated program for publicly funded child care, if the director of job and family services determines that the application is necessary. For purposes of this section, the department of job and family services may enter into agreements with other state agencies that are involved in regulation or funding of child care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child care.

(B) The department of job and family services shall distribute state and federal funds for publicly funded child care, including appropriations of state funds for publicly funded child care and appropriations of federal funds available under the child care block grant act, Title IV-A, and Title XX. The department may use any state funds appropriated for publicly funded child care as the state share required to match any federal funds appropriated for publicly funded child care.

(C) In the use of federal funds available under the child care block grant act, all of the following apply:

(1) The department may use the federal funds to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child care.

(2) Not more than five per cent of the aggregate amount of the federal funds received for a fiscal year may be expended for administrative costs.

(3) The department shall allocate and use at least four per cent of the federal funds for the following:

(a) Activities designed to provide comprehensive consumer education to parents and the public;

(b) Activities that increase parental choice;

(c) Activities, including child care resource and referral services, designed to improve the quality, and increase the supply, of child care;

(d) Establishing the step up to quality program pursuant to section [5104.29](#) of the Revised Code.

(4) The department shall ensure that the federal funds will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of the child care block grant act for publicly funded child care and related programs. If authorized by rules adopted by the department pursuant to section [5104.42](#) of the Revised Code, county departments of job and family services may purchase child care from funds obtained through any other means.

(D) The department shall encourage the development of suitable child care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child care. The department of job and family services may enter into interagency agreements with the department of education and workforce, the chancellor of higher education, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and

entities are necessary for the department of job and family services to fulfill its duties and responsibilities under this chapter.

The department shall develop and maintain a registry of persons providing child care. The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures and requirements for the registry's administration.

(E)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing both of the following:

(a) Reimbursement rates for providers of publicly funded child care not later than the first day of July in each odd-numbered year;

(b) A procedure for reimbursing and paying providers of publicly funded child care.

(2) In establishing reimbursement rates under division (E)(1)(a) of this section, the director shall do all of the following:

(a) Use the information obtained in accordance with 45 C.F.R. 98.45;

(b) Establish an enhanced reimbursement rate for providers who provide child care for caretaker parents who work nontraditional hours;

(c) With regard to the step up to quality program established pursuant to section [5104.29](#) of the Revised Code, establish enhanced reimbursement rates for child care providers that participate in the program.

(3) In establishing reimbursement rates under division (E)(1)(a) of this section, the director may establish different reimbursement rates based on any of the following:

(a) Geographic location of the provider;

(b) Type of care provided;

- (c) Age of the child served;
- (d) Special needs of the child served;
- (e) Whether the expanded hours of service are provided;
- (f) Whether weekend service is provided;
- (g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care;
- (h) Any other factors the director considers appropriate.

Last updated August 31, 2023 at 10:28 AM

Section 5104.301 | Parent cooperative child day-care centers and parent cooperative type A family day-care homes.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

A county department of job and family services may establish a program to encourage the organization of parent cooperative child care centers and parent cooperative type A family child care homes for recipients of publicly funded child care. A program established under this section may include any of the following:

- (A) Recruitment of parents interested in organizing a parent cooperative child care center or parent cooperative type A family child care home;
- (B) Provision of technical assistance in organizing a parent cooperative child care center or parent cooperative type A family child care home;
- (C) Assistance in the developing, conducting, and disseminating training for parents interested in organizing a parent cooperative child care center or parent cooperative type A family child care home.

A county department that implements a program under this section shall receive from funds available under the child care block grant act a five thousand dollar incentive payment for each parent cooperative child care center or parent cooperative type A family child care home organized pursuant to this section.

Parents of children enrolled in a parent cooperative child care center or parent cooperative type A family child care home pursuant to this section shall be required to work in the center or home a minimum of four hours per week.

The director of job and family services shall adopt rules governing the establishment and operation of programs under this section.

Last updated August 31, 2023 at 10:36 AM

Section 5104.31 | Eligible providers of services for publicly funded child day-care.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) Publicly funded child care may be provided only by the following:

(1) Any of the following licensed by the department of job and family services pursuant to section [5104.03](#) of the Revised Code or pursuant to rules adopted under section [5104.018](#) of the Revised Code:

(a) A child care center, including a parent cooperative child care center;

(b) A type A family child care home, including a parent cooperative type A family child care home;

(c) A licensed type B family child care home.

- (2) An in-home aide who has been certified by the county department of job and family services pursuant to section [5104.12](#) of the Revised Code;
 - (3) A child day camp approved pursuant to section [5104.22](#) of the Revised Code;
 - (4) A licensed preschool program;
 - (5) A licensed school child program;
 - (6) A border state child care provider, except that a border state child care provider may provide publicly funded child care only to an individual who resides in an Ohio county that borders the state in which the provider is located.
- (B) Publicly funded child care may be provided in a child's own home only by an in-home aide.
- (C)(1) Except as provided in division (C)(2) of this section, a licensed child care program may provide publicly funded child care only if the program is rated through the step up to quality program established pursuant to section [5104.29](#) of the Revised Code.
- (2) A licensed child care program that is any of the following may provide publicly funded child care without being rated through the step up to quality program:
- (a) A program that operates only during the summer and for not more than fifteen consecutive weeks;
 - (b) A program that operates only during school breaks;
 - (c) A program that operates only on weekday evenings, weekends, or both;
 - (d) A program that holds a provisional license issued under section [5104.03](#) of the Revised Code;

- (e) A program that had its step up to quality program rating removed by the department of job and family services within the previous twelve months;
- (f) A program that is the subject of a revocation action initiated by the department, but the license has not yet been revoked;
- (g) A program that provides publicly funded child care to less than twenty-five per cent of the program's license capacity;
- (h) A program that is a type A family child care home or licensed type B family child care home.

Last updated August 31, 2023 at 10:42 AM

Section 5104.32 | Provider contracts.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) All purchases of publicly funded child care shall be made under a contract entered into by a licensed child care center, licensed type A family child care home, licensed type B family child care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider and the department of job and family services. All contracts for publicly funded child care shall be contingent upon the availability of state and federal funds. The department shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child care, regardless of the source of public funds used to purchase the child care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state contracts or contracts involving the expenditure of state or federal funds, all contracts for publicly funded child care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state contracts or contracts involving the expenditure of state or federal funds.

(B) Each contract for publicly funded child care shall specify at least the following:

(1) That the provider of publicly funded child care agrees to be paid for rendering services at the lower of the rate customarily charged by the provider for children enrolled for child care or the reimbursement rate of payment established pursuant to section [5104.30](#) of the Revised Code;

(2) That, if a provider provides child care to an individual potentially eligible for publicly funded child care who is subsequently determined to be eligible, the department agrees to pay for all child care provided between the date the county department of job and family services receives the individual's completed application and the date the individual's eligibility is determined;

(3) Whether the county department of job and family services, the provider, or a child care resource and referral service organization will make eligibility determinations, whether the provider or a child care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(4) That the provider, other than a border state child care provider, shall continue to be licensed, approved, or certified pursuant to this chapter and shall comply with all standards and other requirements in this chapter and in rules adopted pursuant to this chapter for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and

shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(6) Whether the provider will be paid by the state department of job and family services or in some other manner as prescribed by rules adopted under section [5104.42](#) of the Revised Code;

(7) That the contract is subject to the availability of state and federal funds.

(C)(1) The department shall establish an automated child care system to track attendance and calculate payments for publicly funded child care.

(2) Each eligible provider that provides publicly funded child care shall participate in the automated child care system. A provider participating in the system shall not do any of the following:

(a) Use or have possession of a personal identification number or password issued to a caretaker parent under the automated child care system;

(b) Falsify attendance records;

(c) Knowingly seek or accept payment for publicly funded child care that was not provided or for which the provider was not eligible;

(d) Knowingly seek or accept payment for child care provided to a child who resides in the provider's own home.

(D) The department may withhold any money due under this chapter and may recover through any appropriate method any money erroneously paid under this chapter if evidence demonstrates that a provider of publicly funded child care failed to comply with either of the following:

(1) The terms of the contract entered into under this section;

(2) This chapter or any rules adopted under it.

(E) If the department has evidence that a provider has employed an individual who is ineligible for employment under section [5104.013](#) of the Revised Code and the provider has not released the individual from employment upon notice that the individual is ineligible, the department may terminate immediately the contract entered into under this section to provide publicly funded child care.

(F) Any decision by the department concerning publicly funded child care, including the recovery of funds, overpayment determinations, and contract terminations is final and is not subject to appeal, hearing, or further review under Chapter 119. of the Revised Code.

Last updated August 31, 2023 at 10:46 AM

Section 5104.33 | Forms for eligibility determinations for publicly funded child day-care.

Effective: May 18, 2005 **Latest Legislation:** House Bill 11 - 125th General Assembly

(A) The department of job and family services shall prescribe an application form for use in making eligibility determinations for publicly funded child care. The form shall be as brief and simple as practicable.

(B) In administering the process of applying for publicly funded child care, the county department of job and family services shall implement policies designed to ensure that the application process is as accessible to the public as possible. These policies shall include making the application forms available at appropriate locations selected by the county department and making arrangements that enable applicants to complete the application process at times outside their normal working hours, and at locations, convenient for them. The arrangements may include stationing certain of their employees at various sites

in the county for the purpose of assisting applicants in completing the application process and of making eligibility determinations at those locations. The arrangements may also include providing training and technical assistance to appropriate entities that qualify them to provide assistance in completing the application process and, to the extent permitted by federal law, to make eligibility determinations.

Each county department of job and family services shall submit to the department of job and family services for approval its plan for ensuring that the application process is as accessible to the public as possible and complies with this division. The county department shall make any changes to its plan that the department determines are necessary for compliance with this division and with any state standards adopted for the administration of this division.

Last updated September 28, 2023 at 10:13 AM

Section 5104.34 | Determination of eligibility.

Effective: September 30, 2021 **Latest Legislation:** House Bill 110 - 134th General Assembly

(A)(1) Each county department of job and family services shall implement procedures for making determinations of eligibility for publicly funded child care. Under those procedures, the eligibility determination for each applicant shall be made no later than thirty calendar days from the date the county department receives a completed application for publicly funded child care. Each applicant shall be notified promptly of the results of the eligibility determination. An applicant aggrieved by a decision or delay in making an eligibility determination may appeal the decision or delay to the department of job and family services in accordance with section [5101.35](#) of the Revised Code. The due process rights of applicants shall be protected.

To the extent permitted by federal law, the county department may make all determinations of eligibility for publicly funded child care, may contract with child care

providers or child care resource and referral service organizations for the providers or resource and referral service organizations to make all or any part of the determinations, and may contract with child care providers or child care resource and referral service organizations for the providers or resource and referral service organizations to collect specified information for use by the county department in making determinations. If a county department contracts with a child care provider or a child care resource and referral service organization for eligibility determinations or for the collection of information, the contract shall require the provider or resource and referral service organization to make each eligibility determination no later than thirty calendar days from the date the provider or resource and referral organization receives a completed application that is the basis of the determination and to collect and transmit all necessary information to the county department within a period of time that enables the county department to make each eligibility determination no later than thirty days after the filing of the application that is the basis of the determination.

The county department may station employees of the department in various locations throughout the county to collect information relevant to applications for publicly funded child care and to make eligibility determinations. The county department, child care provider, and child care resource and referral service organization shall make each determination of eligibility for publicly funded child care no later than thirty days after the filing of the application that is the basis of the determination, shall make each determination in accordance with any relevant rules adopted pursuant to section [5104.38](#) of the Revised Code, and shall notify promptly each applicant for publicly funded child care of the results of the determination of the applicant's eligibility.

The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for monitoring the eligibility determination process. In accordance with those rules, the state department shall monitor eligibility determinations made by county departments of job and family services and shall direct any entity that is not in compliance

with this division or any rule adopted under this division to implement corrective action specified by the department.

(2)(a) All eligibility determinations for publicly funded child care shall be made in accordance with rules adopted pursuant to division (A) of section [5104.38](#) of the Revised Code. Except as otherwise provided in this section, all of the following apply:

(i) Publicly funded child care may be provided only to eligible infants, toddlers, preschool-age children, school-age children under age thirteen, or children receiving special needs child care.

(ii) For an applicant to be eligible for publicly funded child care, the caretaker parent must be employed or participating in a program of education or training for an amount of time reasonably related to the time that the parent's children are receiving publicly funded child care. This restriction does not apply to families whose children are eligible for protective child care.

(iii) The eligibility period for publicly funded child care shall be at least twelve months.

(b) In accordance with rules adopted under division (B) of section [5104.38](#) of the Revised Code, an applicant may receive publicly funded child care while the county department determines eligibility. An applicant may receive publicly funded child care while a county department determines eligibility only once during a twelve-month period. If the county department determines that an applicant is not eligible for publicly funded child care, the child care provider shall be paid for providing publicly funded child care for up to five days after that determination if the county department received a completed application with all required documentation. A program may appeal a denial of payment under this division.

(c) If a caretaker parent who has been determined eligible to receive publicly funded child care no longer meets the requirements of division (A)(2)(a)(ii) of this section, the caretaker

parent may continue to receive publicly funded child care for a period of at least three but not more than four months not to extend beyond the caretaker parent's eligibility period.

(d) If a child turns thirteen, or if a child receiving special needs child care turns eighteen, during the eligibility period, the caretaker parent may continue to receive publicly funded child care until the end of that eligibility period.

Subject to available funds, the department of job and family services shall allow a family to receive publicly funded child care unless the family's income exceeds the maximum income eligibility limit. Initial and continued eligibility for publicly funded child care is subject to available funds unless the family is receiving child care pursuant to division (A) (1), (2), (3), or (4) of section [5104.30](#) of the Revised Code. If the department must limit eligibility due to lack of available funds, it shall give first priority for publicly funded child care to an assistance group whose income is not more than the maximum income eligibility limit that received transitional child care in the previous month but is no longer eligible because the eligibility period has expired. Such an assistance group shall continue to receive priority for publicly funded child care until its income exceeds the maximum income eligibility limit.

(3) An assistance group that ceases to participate in the Ohio works first program established under Chapter 5107. of the Revised Code is eligible for transitional child care at any time during the immediately following twelve-month period that both of the following apply:

(a) The assistance group requires child care due to employment;

(b) The assistance group's income is not more than one hundred fifty per cent of the federal poverty line.

An assistance group ineligible to participate in the Ohio works first program pursuant to section [5101.83](#) or section [5107.16](#) of the Revised Code is not eligible for transitional child

care.

(B) To the extent permitted by federal law, the department of job and family services may require a caretaker parent determined to be eligible for publicly funded child care to pay a fee according to the schedule of fees established in rules adopted under section [5104.38](#) of the Revised Code. The department shall make protective child care services and homeless child care services available to children without regard to the income or assets of the caretaker parent of the child.

(C) A caretaker parent receiving publicly funded child care shall report to the entity that determined eligibility any changes in status with respect to employment or participation in a program of education or training not later than ten calendar days after the change occurs.

(D) If the department of job and family services determines that available resources are not sufficient to provide publicly funded child care to all eligible families who request it, the department may establish a waiting list. The department may establish separate waiting lists within the waiting list based on income.

(E) A caretaker parent shall not receive publicly funded child care from more than one child care provider per child during a week, unless a county department grants the family an exemption for one of the following reasons:

(1) The child needs additional care during non-traditional hours;

(2) The child needs to change providers in the middle of the week and the hours of care provided by the providers do not overlap;

(3) The child's provider is closed on scheduled school days off or on calamity days.

(F) As used in this section, "maximum income eligibility limit" means the amount of income specified in rules adopted under division (A) of section [5104.38](#) of the Revised

Code.

Last updated September 27, 2023 at 9:35 AM

Section 5104.341 | Validity of determination of eligibility.

Effective: September 15, 2014 **Latest Legislation:** House Bill 483 - 130th General Assembly

(A) An eligibility determination made under section [5104.34](#) of the Revised Code for publicly funded child care is valid for one year.

(B) The county department of job and family services shall adjust the appropriate level of a fee charged under division (B) of section [5104.34](#) of the Revised Code if a caretaker parent reports changes in income, family size, or both.

Section 5104.35 | County department of job and family services - powers and duties.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) Each county department of job and family services shall do all of the following:

(1) Accept any gift, grant, or other funds from either public or private sources offered unconditionally or under conditions which are, in the judgment of the department, proper and consistent with this chapter and deposit the funds in the county public assistance fund established by section [5101.161](#) of the Revised Code;

(2) Recruit individuals and groups interested in certification as in-home aides or in developing and operating suitable licensed child care centers, type A family child care homes, or licensed type B family child care homes, especially in areas with high concentrations of recipients of public assistance, and for that purpose provide consultation to interested individuals and groups on request;

(3) Inform clients of the availability of child care services.

(B) A county department of job and family services may, to the extent permitted by federal law, use public child care funds to extend the hours of operation of the county department to accommodate the needs of working caretaker parents and enable those parents to apply for publicly funded child care.

Last updated August 17, 2023 at 1:26 PM

Section 5104.36 | Record for each eligible child.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

The licensee or administrator of a child care center, type A family child care home, or licensed type B family child care home, an in-home aide providing child care services, the director or administrator of an approved child day camp, and a border state child care provider shall keep a record for each eligible child, to be made available to the county department of job and family services or the department of job and family services on request. The record shall include all of the following:

(A) The name and date of birth of the child;

(B) The name and address of the child's caretaker parent;

(C) The name and address of the caretaker parent's place of employment or program of education or training;

(D) The hours for which child care services have been provided for the child;

(E) Any other information required by the county department of job and family services or the state department of job and family services.

Last updated August 31, 2023 at 10:51 AM

Section 5104.37 | Activities to assist families and family day-care homes; reports.

Effective: April 7, 2023 **Latest Legislation:** House Bill 45 - 134th General Assembly

(A) In addition to the duties described in division (D) of section [5104.30](#) of the Revised Code, the director of job and family services shall engage in activities to do the following:

- (1) Encourage the establishment and licensure of family day-care homes in this state, especially in areas with the greatest need for child care;
- (2) Connect families and caretaker parents in need of child care with family day-care homes not meeting the license capacity specified on their licenses, as described in division (E) of section [5104.03](#) of the Revised Code.

(B) The director may contract with one or more third-party entities to assist the director in performing the duties described in division (A) of this section.

(C) Not later than May 30, 2023, and periodically thereafter, the director shall submit to the general assembly a report documenting any barriers that may prevent the establishment or licensure of family day-care homes. The director shall submit the required report in accordance with section [101.68](#) of the Revised Code.

Last updated March 2, 2023 at 3:43 PM

Section 5104.38 | Rules governing financial and administrative requirements for publicly funded child day-care.

Effective: April 7, 2023 **Latest Legislation:** House Bill 45 - 134th General Assembly

In addition to any other rules adopted under this chapter, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing financial and administrative requirements for publicly funded child care and establishing all of the following:

(A) Procedures and criteria to be used in making determinations of eligibility for publicly funded child care that give priority to children of families with lower incomes and procedures and criteria for eligibility for publicly funded protective child care or homeless child care. The rules shall specify the maximum amount of income a family may have for initial and continued eligibility. The maximum amount shall not exceed three hundred per cent of the federal poverty line. The rules may specify exceptions to the eligibility requirements in the case of a family that previously received publicly funded child care and is seeking to have the child care reinstated after the family's eligibility was terminated.

(B) Procedures under which an applicant for publicly funded child care may receive publicly funded child care while the county department of job and family services determines eligibility and under which a child care provider may appeal a denial of payment under division (A)(2)(b) of section [5104.34](#) of the Revised Code;

(C) A schedule of fees requiring all eligible caretaker parents to pay a fee for publicly funded child care according to income and family size, which shall be uniform for all types of publicly funded child care, except as authorized by rule, and, to the extent permitted by federal law, shall permit the use of state and federal funds to pay the customary deposits and other advance payments that a provider charges all children who receive child care from that provider.

(D) A formula for determining the amount of state and federal funds appropriated for publicly funded child care that may be allocated to a county department to use for administrative purposes;

(E) Procedures to be followed by the department and county departments in recruiting individuals and groups to become providers of child care;

(F) Procedures to be followed in establishing state or local programs designed to assist individuals who are eligible for publicly funded child care in identifying the resources available to them and to refer the individuals to appropriate sources to obtain child care;

(G) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child care;

(H) Procedures for establishing a child care grant or loan program in accordance with the child care block grant act;

(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;

(J) A definition of "person who stands in loco parentis" for the purposes of division (LL)(3) of section [5104.01](#) of the Revised Code;

(K) Procedures for a county department of job and family services to follow in making eligibility determinations and redeterminations for publicly funded child care available through telephone, computer, and other means at locations other than the county department;

(L) If the director establishes a different reimbursement rate under division (E)(3)(d) of section [5104.30](#) of the Revised Code, standards and procedures for determining the amount of the higher payment that is to be issued to a child care provider based on the special needs of the child being served;

(M) To the extent permitted by federal law, procedures for paying for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrolling in or attending an education or training program or activity, if the employment or the education or training program or activity is expected to begin within the thirty-day period;

(N) Any other rules necessary to carry out sections [5104.30](#) to [5104.43](#) of the Revised Code.

Last updated September 27, 2023 at 9:36 AM

Section 5104.382 | No contracts to person against whom finding for recovery has been issued.

Effective: May 18, 2005 **Latest Legislation:** House Bill 11 - 125th General Assembly

In adopting rules under division (A) of section [5104.38](#) of the Revised Code establishing criteria for eligibility for publicly funded child care, the director of job and family services may prescribe the amount, duration, and scope of benefits available as publicly funded child care.

Last updated September 27, 2023 at 9:38 AM

Section 5104.39 | Monitoring present and anticipated future expenditures for publicly funded child day-care.

Effective: September 29, 2011 **Latest Legislation:** House Bill 153 - 129th General Assembly

(A) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a procedure for monitoring the expenditures for publicly funded child care to ensure that expenditures do not exceed the available federal and state funds for publicly funded child care. The department of job and family services, with the assistance of the office of budget and management and the child care advisory council created pursuant to section [5104.08](#) of the Revised Code, shall monitor the anticipated future expenditures for publicly funded child care and shall compare those anticipated future expenditures to available federal and state funds for publicly funded child care. Whenever the department determines that the anticipated future expenditures for publicly funded child care will exceed the available federal and state funds, the department shall promptly notify the county departments of job and family services and,

before the available state and federal funds are used, the director shall issue and implement an administrative order that shall specify both of the following:

- (1) Priorities for expending the remaining available federal and state funds for publicly funded child care;
- (2) Instructions and procedures to be used by the county departments regarding eligibility determinations.

(B) The order may do any or all of the following:

- (1) Suspend enrollment of all new participants in any program of publicly funded child care;
- (2) Limit enrollment of new participants to those with incomes at or below a specified percentage of the federal poverty line;
- (3) Disenroll existing participants with income above a specified percentage of the federal poverty line;
- (4) Change the schedule of fees paid by eligible caretaker parents that has been established pursuant to section [5104.38](#) of the Revised Code;
- (5) Change the rate of payment for providers of publicly funded child care that has been established pursuant to section [5104.30](#) of the Revised Code.

(C) Each county department shall comply with the order no later than thirty days after it is issued.

(D) If after issuing an order under this section to suspend or limit enrollment of new participants or disenroll existing participants the department determines that available state and federal funds for publicly funded child care exceed the anticipated future

expenditures for publicly funded child care, the director may issue and implement another administrative order increasing income eligibility levels to a specified percentage of the federal poverty line. The order shall include instructions and procedures to be used by the county departments. Each county department shall comply with the order not later than thirty days after it is issued.

(E) The department of job and family services shall do all of the following:

- (1) Conduct a quarterly evaluation of the program of publicly funded child care that is operated pursuant to sections [5104.30](#) to [5104.43](#) of the Revised Code;
- (2) Prepare reports based upon the evaluations that specify for each county the number of participants and amount of expenditures;
- (3) Provide copies of the reports to both houses of the general assembly and, on request, to interested parties.

Last updated September 27, 2023 at 9:40 AM

Section 5104.40 | Implementation of rules.

Effective: May 18, 2005 **Latest Legislation:** House Bill 11 - 125th General Assembly

A county department of job and family services shall not be held responsible for implementing any rule adopted under this chapter regarding publicly funded child care until the later of thirty days after the effective date of the rule or thirty days after the county department receives notice of the rule if such notification is required under this chapter.

Section 5104.41 | Homeless child care.

Effective: October 17, 2019 **Latest Legislation:** House Bill 166 - 133rd General Assembly

A child and the child's caretaker who are otherwise ineligible for publicly funded child care are eligible for homeless child care for the lesser of the following:

(A) Not more than ninety days;

(B) The period of time they reside in a facility providing emergency shelter for homeless families or the period of time in which the county department determines they are homeless.

Section 5104.42 | Payment procedure for publicly funded child care.

Effective: September 29, 2011 **Latest Legislation:** House Bill 153 - 129th General Assembly

(A) The director of job and family services shall adopt rules pursuant to section [111.15](#) of the Revised Code establishing a payment procedure for publicly funded child care.

(B) The director, by rule adopted in accordance with section [111.15](#) of the Revised Code, may establish a methodology for allocating the state and federal funds appropriated for publicly funded child care.

Last updated September 28, 2023 at 10:15 AM

Section 5104.43 | Deposits into public assistance fund.

Effective: September 29, 2011 **Latest Legislation:** House Bill 153 - 129th General Assembly

Each county department of job and family services shall deposit all funds received from any source for child care services into the public assistance fund established under section [5101.161](#) of the Revised Code.

Section 5104.44 | Effect of child support default on license or certificate.

Effective: March 22, 2001 **Latest Legislation:** Senate Bill 180 - 123rd General Assembly

On receipt of a notice pursuant to section [3123.43](#) of the Revised Code, the department of job and family services shall comply with sections [3123.41](#) to [3123.50](#) of the Revised Code and any applicable rules adopted under section [3123.63](#) of the Revised Code with respect to a license or certificate issued pursuant to this chapter.

Last updated September 28, 2023 at 10:16 AM

Section 5104.50 | [Former R.C. 3301.90, renumbered by H.B. 33, 135th General Assembly, effective 1/1/2025] Early childhood advisory council.

Effective: January 1, 2025 **Latest Legislation:** House Bill 33 - 135th General Assembly

The governor shall create the early childhood advisory council in accordance with 42 U.S.C. 9837b(b)(1) and shall appoint one of its members to serve as chairperson of the council. The council shall serve as the state advisory council on early childhood education and care, as described in 42 U.S.C. 9837b(b)(1). In addition to the duties specified in 42 U.S.C. 9837b(b)(1), the council shall promote family-centered programs and services that acknowledge and support the social, emotional, cognitive, intellectual, and physical development of children and the vital role of families in ensuring the well-being and success of children.

Last updated October 3, 2023 at 1:00 PM

Section 5104.51 | Preschool program licensing.

Effective: January 1, 2025 **Latest Legislation:** House Bill 33 - 135th General Assembly

The department of children and youth shall license a preschool program pursuant to sections [3301.52](#) to [3301.59](#) of the Revised Code.

Last updated October 4, 2023 at 1:52 PM

Section 5104.52 | Kindergarten readiness assessment.

Effective: January 1, 2025 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) The department of children and youth shall develop a diagnostic assessment designed to measure each student's readiness for kindergarten. The kindergarten readiness assessment shall not include components to identify gifted students. Blank copies of the kindergarten readiness assessment shall be public records.

(B) When the kindergarten readiness assessment has been completed, the department shall inform all school districts of its completion and the department shall make the kindergarten readiness assessment available to districts at no cost to the district.

(C) School districts shall administer the kindergarten readiness assessment pursuant to section [3301.0715](#) of the Revised Code beginning the first school year following the development of the kindergarten readiness assessment. Prior to that school year, school districts shall administer the kindergarten readiness assessment that was developed by the department of education under section [3301.0715](#) of the Revised as it existed prior to the effective date of this section.

Last updated October 4, 2023 at 1:52 PM

Section 5104.99 | Penalty.

Effective: October 3, 2023 **Latest Legislation:** House Bill 33 - 135th General Assembly

(A) Whoever violates section [5104.02](#) of the Revised Code shall be punished as follows:

(1) For each offense, the offender shall be fined not less than one hundred dollars nor more than five hundred dollars multiplied by the number of children receiving child care at the child care center or type A family child care home that either exceeds the number of children to which a type B family day-care home may provide child care or, if the offender

is a licensed type A family child care home that is operating as a child care center without being licensed as a center, exceeds the license capacity of the type A home.

(2) In addition to the fine specified in division (A)(1) of this section, all of the following apply:

(a) Except as provided in divisions (A)(2)(b), (c), and (d) of this section, the court shall order the offender to reduce the number of children to which it provides child care to a number that does not exceed either the number of children to which a type B family child care home may provide child care or, if the offender is a licensed type A family child care home that is operating as a child care center without being licensed as a center, the license capacity of the type A home.

(b) If the offender previously has been convicted of or pleaded guilty to one violation of section [5104.02](#) of the Revised Code, the court shall order the offender to cease the provision of child care to any person until it obtains a child care center license or a type A family child care home license, as appropriate, under section [5104.03](#) of the Revised Code.

(c) If the offender previously has been convicted of or pleaded guilty to two violations of section [5104.02](#) of the Revised Code, the offender is guilty of a misdemeanor of the first degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child care center license or a type A family child care home license, as appropriate, under section [5104.03](#) of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a misdemeanor of the first degree under section [2929.28](#) of the Revised Code.

(d) If the offender previously has been convicted of or pleaded guilty to three or more violations of section [5104.02](#) of the Revised Code, the offender is guilty of a felony of the

fifth degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child care center license or a type A family child care home license, as appropriate, under section [5104.03](#) of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a felony of the fifth degree under section [2929.18](#) of the Revised Code.

(B) Whoever violates section [5104.09](#) of the Revised Code is guilty of a misdemeanor of the third degree.

Last updated August 17, 2023 at 2:50 PM
